

## **Chapter 12**

### **Sales and Use Tax Act**

#### **Part 1**

#### **Tax Collection**

##### **59-12-101 Short title.**

This chapter is known as the "Sales and Use Tax Act."

Renumbered and Amended by Chapter 5, 1987 General Session

##### **59-12-102 Definitions.**

As used in this chapter:

- (1) "800 service" means a telecommunications service that:
  - (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
  - (b) is typically marketed:
    - (i) under the name 800 toll-free calling;
    - (ii) under the name 855 toll-free calling;
    - (iii) under the name 866 toll-free calling;
    - (iv) under the name 877 toll-free calling;
    - (v) under the name 888 toll-free calling; or
    - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.
- (2)
  - (a) "900 service" means an inbound toll telecommunications service that:
    - (i) a subscriber purchases;
    - (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
      - (A) prerecorded announcement; or
      - (B) live service; and
    - (iii) is typically marketed:
      - (A) under the name 900 service; or
      - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.
  - (b) "900 service" does not include a charge for:
    - (i) a collection service a seller of a telecommunications service provides to a subscriber; or
    - (ii) the following a subscriber sells to the subscriber's customer:
      - (A) a product; or
      - (B) a service.
- (3)
  - (a) "Admission or user fees" includes season passes.
  - (b) "Admission or user fees" does not include annual membership dues to private organizations.
- (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.
- (5) "Agreement combined tax rate" means the sum of the tax rates:
  - (a) listed under Subsection (6); and

- (b) that are imposed within a local taxing jurisdiction.
- (6) "Agreement sales and use tax" means a tax imposed under:
  - (a) Subsection 59-12-103(2)(a)(i)(A);
  - (b) Subsection 59-12-103(2)(b)(i);
  - (c) Subsection 59-12-103(2)(c)(i);
  - (d) Subsection 59-12-103(2)(d)(i)(A)(I);
  - (e) Section 59-12-204;
  - (f) Section 59-12-401;
  - (g) Section 59-12-402;
  - (h) Section 59-12-402.1;
  - (i) Section 59-12-703;
  - (j) Section 59-12-802;
  - (k) Section 59-12-804;
  - (l) Section 59-12-1102;
  - (m) Section 59-12-1302;
  - (n) Section 59-12-1402;
  - (o) Section 59-12-1802;
  - (p) Section 59-12-2003;
  - (q) Section 59-12-2103;
  - (r) Section 59-12-2213;
  - (s) Section 59-12-2214;
  - (t) Section 59-12-2215;
  - (u) Section 59-12-2216;
  - (v) Section 59-12-2217; or
  - (w) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
  - (a) except for:
    - (i) an airline as defined in Section 59-2-102; or
    - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
  - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
    - (i) check, diagnose, overhaul, and repair:
      - (A) an onboard system of a fixed wing turbine powered aircraft; and
      - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
    - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
    - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
      - (A) an inspection;
      - (B) a repair, including a structural repair or modification;
      - (C) changing landing gear; and
      - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
    - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
    - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

- (9) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
  - (b) contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- (a) biomass energy;
  - (b) geothermal energy;
  - (c) hydroelectric energy;
  - (d) solar energy;
  - (e) wind energy; or
  - (f) energy that is derived from:
    - (i) coal-to-liquids;
    - (ii) nuclear fuel;
    - (iii) oil-impregnated diatomaceous earth;
    - (iv) oil sands;
    - (v) oil shale;
    - (vi) petroleum coke; or
    - (vii) waste heat from:
      - (A) an industrial facility; or
      - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11)
- (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
    - (i) uses alternative energy to produce electricity; and
    - (ii) has a production capacity of two megawatts or greater.
  - (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
    - (i) connected to an electric grid; or
    - (ii) located on the premises of an electricity consumer.
- (12)
- (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
  - (b) "Ancillary service" includes:
    - (i) a conference bridging service;
    - (ii) a detailed communications billing service;
    - (iii) directory assistance;
    - (iv) a vertical service; or
    - (v) a voice mail service.
- (13) "Area agency on aging" is as defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
  - (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

- (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
  - (b) at the direction of the seller of the cleaning or washing of the tangible personal property.
- (16) "Authorized carrier" means:
- (a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;
  - (b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or
  - (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.
- (17)
- (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:
    - (i) material from a plant or tree; or
    - (ii) other organic matter that is available on a renewable basis, including:
      - (A) slash and brush from forests and woodlands;
      - (B) animal waste;
      - (C) waste vegetable oil;
      - (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
      - (E) aquatic plants; and
      - (F) agricultural products.
  - (b) "Biomass energy" does not include:
    - (i) black liquor; or
    - (ii) treated woods.
- (18)
- (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:
    - (i) distinct and identifiable; and
    - (ii) sold for one nonitemized price.
  - (b) "Bundled transaction" does not include:
    - (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;
    - (ii) the sale of real property;
    - (iii) the sale of services to real property;
    - (iv) the retail sale of tangible personal property and a service if:
      - (A) the tangible personal property:
        - (I) is essential to the use of the service; and
        - (II) is provided exclusively in connection with the service; and
      - (B) the service is the true object of the transaction;
    - (v) the retail sale of two services if:
      - (A) one service is provided that is essential to the use or receipt of a second service;
      - (B) the first service is provided exclusively in connection with the second service; and
      - (C) the second service is the true object of the transaction;

- (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
  - (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
  - (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
- (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:
  - (A) that retail sale includes:
    - (I) food and food ingredients;
    - (II) a drug;
    - (III) durable medical equipment;
    - (IV) mobility enhancing equipment;
    - (V) an over-the-counter drug;
    - (VI) a prosthetic device; or
    - (VII) a medical supply; and
  - (B) subject to Subsection (18)(f):
    - (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
    - (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.
- (c)
  - (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:
    - (A) packaging that:
      - (I) accompanies the sale of the tangible personal property, product, or service; and
      - (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;
    - (B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or
    - (C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."
  - (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.
- (d)
  - (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:
    - (A) a binding sales document; or
    - (B) another supporting sales-related document that is available to a purchaser.
  - (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:
    - (A) a bill of sale;
    - (B) a contract;

- (C) an invoice;
  - (D) a lease agreement;
  - (E) a periodic notice of rates and services;
  - (F) a price list;
  - (G) a rate card;
  - (H) a receipt; or
  - (I) a service agreement.
- (e)
- (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:
    - (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
    - (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.
  - (ii) For purposes of Subsection (18)(b)(vi), a seller:
    - (A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
    - (B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.
  - (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.
- (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.
- (19) "Certified automated system" means software certified by the governing board of the agreement that:
- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
    - (i) on a transaction; and
    - (ii) in the states that are members of the agreement;
  - (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
  - (c) maintains a record of the transaction described in Subsection (19)(a)(i).
- (20) "Certified service provider" means an agent certified:
- (a) by the governing board of the agreement; and
  - (b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (21)
- (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
    - (i) listing the items that constitute "clothing"; and
    - (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

- (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).
- (24)
- (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.
  - (b)
    - (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.
    - (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.
  - (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
- (25) "Component part" includes:
- (a) poultry, dairy, and other livestock feed, and their components;
  - (b) baling ties and twine used in the baling of hay and straw;
  - (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
  - (d) feed, seeds, and seedlings.
- (26) "Computer" means an electronic device that accepts information:
- (a)
    - (i) in digital form; or
    - (ii) in a form similar to digital form; and
  - (b) manipulates that information for a result based on a sequence of instructions.
- (27) "Computer software" means a set of coded instructions designed to cause:
- (a) a computer to perform a task; or
  - (b) automatic data processing equipment to perform a task.
- (28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
- (a) future updates or upgrades to computer software;
  - (b) support services with respect to computer software; or
  - (c) a combination of Subsections (28)(a) and (b).
- (29)
- (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
  - (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).
  - (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).
- (30) "Construction materials" means any tangible personal property that will be converted into real property.
- (31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- (32)
- (a) "Delivery charge" means a charge:
    - (i) by a seller of:

- (A) tangible personal property;
- (B) a product transferred electronically; or
- (C) services; and
- (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.
- (b) "Delivery charge" includes a charge for the following:
  - (i) transportation;
  - (ii) shipping;
  - (iii) postage;
  - (iv) handling;
  - (v) crating; or
  - (vi) packing.
- (33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
- (34) "Dietary supplement" means a product, other than tobacco, that:
  - (a) is intended to supplement the diet;
  - (b) contains one or more of the following dietary ingredients:
    - (i) a vitamin;
    - (ii) a mineral;
    - (iii) an herb or other botanical;
    - (iv) an amino acid;
    - (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
    - (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
  - (c)
    - (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
      - (A) tablet form;
      - (B) capsule form;
      - (C) powder form;
      - (D) softgel form;
      - (E) gelcap form; or
      - (F) liquid form; or
    - (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
      - (A) as conventional food; and
      - (B) for use as a sole item of:
        - (I) a meal; or
        - (II) the diet; and
  - (d) is required to be labeled as a dietary supplement:
    - (i) identifiable by the "Supplemental Facts" box found on the label; and
    - (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (36)
  - (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

- (b) "Digital audio work" includes a ringtone.
- (37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.
- (38)
  - (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:
    - (i) to:
      - (A) a mass audience; or
      - (B) addressees on a mailing list provided:
        - (I) by a purchaser of the mailing list; or
        - (II) at the discretion of the purchaser of the mailing list; and
    - (ii) if the cost of the printed material is not billed directly to the recipients.
  - (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
  - (c) "Direct mail" does not include multiple items of printed material delivered to a single address.
- (39) "Directory assistance" means an ancillary service of providing:
  - (a) address information; or
  - (b) telephone number information.
- (40)
  - (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:
    - (i) cannot withstand repeated use; and
    - (ii) are purchased by, for, or on behalf of a person other than:
      - (A) a health care facility as defined in Section 26-21-2;
      - (B) a health care provider as defined in Section 78B-3-403;
      - (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
      - (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
  - (b) "Disposable home medical equipment or supplies" does not include:
    - (i) a drug;
    - (ii) durable medical equipment;
    - (iii) a hearing aid;
    - (iv) a hearing aid accessory;
    - (v) mobility enhancing equipment; or
    - (vi) tangible personal property used to correct impaired vision, including:
      - (A) eyeglasses; or
      - (B) contact lenses.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) "Drilling equipment manufacturer" means a facility:
  - (a) located in the state;
  - (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
  - (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
  - (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (42)
  - (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:
  - (A) the official United States Pharmacopoeia;
  - (B) the official Homeopathic Pharmacopoeia of the United States;
  - (C) the official National Formulary; or
  - (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
  - (A) diagnosis of disease;
  - (B) cure of disease;
  - (C) mitigation of disease;
  - (D) treatment of disease; or
  - (E) prevention of disease; or
- (iii) intended to affect:
  - (A) the structure of the body; or
  - (B) any function of the body.
- (b) "Drug" does not include:
  - (i) food and food ingredients;
  - (ii) a dietary supplement;
  - (iii) an alcoholic beverage; or
  - (iv) a prosthetic device.
- (43)
  - (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:
    - (i) can withstand repeated use;
    - (ii) is primarily and customarily used to serve a medical purpose;
    - (iii) generally is not useful to a person in the absence of illness or injury; and
    - (iv) is not worn in or on the body.
  - (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).
  - (c) "Durable medical equipment" does not include mobility enhancing equipment.
- (44) "Electronic" means:
  - (a) relating to technology; and
  - (b) having:
    - (i) electrical capabilities;
    - (ii) digital capabilities;
    - (iii) magnetic capabilities;
    - (iv) wireless capabilities;
    - (v) optical capabilities;
    - (vi) electromagnetic capabilities; or
    - (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- (45) "Electronic financial payment service" means an establishment:
  - (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
  - (b) that performs electronic financial payment services.
- (46) "Employee" is as defined in Section 59-10-401.
- (47) "Fixed guideway" means a public transit facility that uses and occupies:
  - (a) rail for the use of public transit; or
  - (b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50)

(a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

(ii) that are:

(A) sold for:

- (I) ingestion by humans; or
- (II) chewing by humans; and

(B) consumed for the substance's:

- (I) taste; or
- (II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

(51)

(a) "Fundraising sales" means sales:

(i)

- (A) made by a school; or
- (B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
- (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
- (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(54)

(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

- (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
- (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;
- (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- (iv) the National Guard;
- (v) an independent entity as defined in Section 63E-1-102; or
- (vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

- (i) an applied technology college within the Utah College of Applied Technology;
- (ii) a school;
- (iii) the State Board of Education;
- (iv) the State Board of Regents; or
- (v) an institution of higher education.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
- (v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

- (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(57)

- (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:
  - (i) tangible personal property; or
  - (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
  - (i) repairs or renovations of:
    - (A) tangible personal property; or
    - (B) a product transferred electronically; or
  - (ii) attaching tangible personal property or a product transferred electronically:
    - (A) to other tangible personal property; and
    - (B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59)

- (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
    - (i)
      - (A) a fixed term; or
      - (B) an indeterminate term; and
    - (ii) consideration.
  - (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
  - (c) "Lease" or "rental" does not include:
    - (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
    - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
      - (A) upon completion of required payments; and
      - (B) if the payment of an option price does not exceed the greater of:
        - (I) \$100; or
        - (II) 1% of the total required payments; or
    - (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
  - (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
    - (i) set-up of tangible personal property;
    - (ii) maintenance of tangible personal property; or
    - (iii) inspection of tangible personal property.
- (60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
  - (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
  - (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

- (61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- (63) "Local taxing jurisdiction" means a:
- (a) county that is authorized to impose an agreement sales and use tax;
  - (b) city that is authorized to impose an agreement sales and use tax; or
  - (c) town that is authorized to impose an agreement sales and use tax.
- (64) "Manufactured home" is as defined in Section 15A-1-302.
- (65) "Manufacturing facility" means:
- (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
  - (b) a scrap recycler if:
    - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
      - (A) iron;
      - (B) steel;
      - (C) nonferrous metal;
      - (D) paper;
      - (E) glass;
      - (F) plastic;
      - (G) textile; or
      - (H) rubber; and
    - (ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or
  - (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.
- (66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:
- (a) child or stepchild, regardless of whether the child or stepchild is:
    - (i) an adopted child or adopted stepchild; or
    - (ii) a foster child or foster stepchild;
  - (b) grandchild or stepgrandchild;
  - (c) grandparent or stepgrandparent;
  - (d) nephew or stepnephew;
  - (e) niece or stepniece;
  - (f) parent or stepparent;
  - (g) sibling or stepsibling;
  - (h) spouse;
  - (i) person who is the spouse of a person described in Subsections (66)(a) through (g); or
  - (j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (67) "Mobile home" is as defined in Section 15A-1-302.

- (68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (69)
- (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
    - (i) the origination point of the conveyance, routing, or transmission is not fixed;
    - (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
    - (iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.
  - (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
- (70)
- (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:
    - (i) primarily and customarily used to provide or increase the ability to move from one place to another;
    - (ii) appropriate for use in a:
      - (A) home; or
      - (B) motor vehicle; and
    - (iii) not generally used by persons with normal mobility.
  - (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).
  - (c) "Mobility enhancing equipment" does not include:
    - (i) a motor vehicle;
    - (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
    - (iii) durable medical equipment; or
    - (iv) a prosthetic device.
- (71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (72) "Model 2 seller" means a seller registered under the agreement that:
- (a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
  - (b) retains responsibility for remitting all of the sales tax:
    - (i) collected by the seller; and
    - (ii) to the appropriate local taxing jurisdiction.
- (73)
- (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:
    - (i) sales in at least five states that are members of the agreement;
    - (ii) total annual sales revenues of at least \$500,000,000;
    - (iii) a proprietary system that calculates the amount of tax:
      - (A) for an agreement sales and use tax; and
      - (B) due to each local taxing jurisdiction; and

- (iv) entered into a performance agreement with the governing board of the agreement.
- (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.
- (74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.
- (75) "Modular home" means a modular unit as defined in Section 15A-1-302.
- (76) "Motor vehicle" is as defined in Section 41-1a-102.
- (77) "Oil sands" means impregnated bituminous sands that:
  - (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
  - (b) yield mixtures of liquid hydrocarbon; and
  - (c) require further processing other than mechanical blending before becoming finished petroleum products.
- (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
- (79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.
- (80)
  - (a) "Other fuels" means products that burn independently to produce heat or energy.
  - (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
- (81)
  - (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.
  - (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.
- (82) "Pawnbroker" is as defined in Section 13-32a-102.
- (83) "Pawn transaction" is as defined in Section 13-32a-102.
- (84)
  - (a) "Permanently attached to real property" means that for tangible personal property attached to real property:
    - (i) the attachment of the tangible personal property to the real property:
      - (A) is essential to the use of the tangible personal property; and
      - (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or
    - (ii) if the tangible personal property is detached from the real property, the detachment would:
      - (A) cause substantial damage to the tangible personal property; or
      - (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.
  - (b) "Permanently attached to real property" includes:
    - (i) the attachment of an accessory to the tangible personal property if the accessory is:
      - (A) essential to the operation of the tangible personal property; and
      - (B) attached only to facilitate the operation of the tangible personal property;
    - (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

- (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).
- (c) "Permanently attached to real property" does not include:
  - (i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:
    - (A) convenience;
    - (B) stability; or
    - (C) for an obvious temporary purpose;
  - (ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);
  - (iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
    - (A) a computer;
    - (B) a telephone;
    - (C) a television; or
    - (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
  - (iv) an item listed in Subsection (125)(c).
- (85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- (86) "Place of primary use":
  - (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
    - (i) the residential street address of the customer; or
    - (ii) the primary business street address of the customer; or
  - (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (87)
  - (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:
    - (i) through the use of a:
      - (A) bank card;
      - (B) credit card;
      - (C) debit card; or
      - (D) travel card; or
    - (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.
  - (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.
- (88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

- (a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;
- (b) that:
  - (i) is paid for in advance; and
  - (ii) enables the origination of a call using an:
    - (A) access number; or
    - (B) authorization code;
- (c) that is dialed:
  - (i) manually; or
  - (ii) electronically; and
- (d) sold in predetermined units or dollars that decline:
  - (i) by a known amount; and
  - (ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

- (a) that provides the right to utilize:
  - (i) mobile wireless service; and
  - (ii) other service that is not a telecommunications service, including:
    - (A) the download of a product transferred electronically;
    - (B) a content service; or
    - (C) an ancillary service;
- (b) that:
  - (i) is paid for in advance; and
  - (ii) enables the origination of a call using an:
    - (A) access number; or
    - (B) authorization code;
- (c) that is dialed:
  - (i) manually; or
  - (ii) electronically; and
- (d) sold in predetermined units or dollars that decline:
  - (i) by a known amount; and
  - (ii) with use.

(91)

(a) "Prepared food" means:

- (i) food:
  - (A) sold in a heated state; or
  - (B) heated by a seller;
- (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
- (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:
  - (A) plate;
  - (B) knife;
  - (C) fork;
  - (D) spoon;
  - (E) glass;
  - (F) cup;
  - (G) napkin; or
  - (H) straw.

- (b) "Prepared food" does not include:
  - (i) food that a seller only:
    - (A) cuts;
    - (B) repackages; or
    - (C) pasteurizes; or
  - (ii)
    - (A) the following:
      - (I) raw egg;
      - (II) raw fish;
      - (III) raw meat;
      - (IV) raw poultry; or
      - (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and
    - (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or
  - (iii) the following if sold without eating utensils provided by the seller:
    - (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
    - (B) food and food ingredients sold in an unheated state:
      - (I) by weight or volume; and
      - (II) as a single item; or
    - (C) a bakery item, including:
      - (I) a bagel;
      - (II) a bar;
      - (III) a biscuit;
      - (IV) bread;
      - (V) a bun;
      - (VI) a cake;
      - (VII) a cookie;
      - (VIII) a croissant;
      - (IX) a danish;
      - (X) a donut;
      - (XI) a muffin;
      - (XII) a pastry;
      - (XIII) a pie;
      - (XIV) a roll;
      - (XV) a tart;
      - (XVI) a torte; or
      - (XVII) a tortilla.
- (c) An eating utensil provided by the seller does not include the following used to transport the food:
  - (i) a container; or
  - (ii) packaging.
- (92) "Prescription" means an order, formula, or recipe that is issued:
  - (a)
    - (i) orally;

- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(93)

- (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:
  - (i) by the author or other creator of the computer software; and
  - (ii) to the specifications of a specific purchaser.
- (b) "Prewritten computer software" includes:
  - (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:
    - (A) by the author or other creator of the computer software; and
    - (B) to the specifications of a specific purchaser;
  - (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
  - (iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:
    - (A) that is modified or enhanced to any degree; and
    - (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
- (c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
  - (i) reasonable; and
  - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:
    - (A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;
    - (B) a preponderance of the facts and circumstances at the time of the transaction; and
    - (C) the understanding of all of the parties to the transaction.

(94)

- (a) "Private communications service" means a telecommunications service:
  - (i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and
  - (ii) regardless of the manner in which the one or more communications channels are connected.
- (b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:
  - (i) an extension line;
  - (ii) a station;
  - (iii) switching capacity; or
  - (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95)

- (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.
- (b) "Product transferred electronically" does not include:
  - (i) an ancillary service;
  - (ii) computer software; or
  - (iii) a telecommunications service.

(96)

- (a) "Prosthetic device" means a device that is worn on or in the body to:
  - (i) artificially replace a missing portion of the body;
  - (ii) prevent or correct a physical deformity or physical malfunction; or
  - (iii) support a weak or deformed portion of the body.
- (b) "Prosthetic device" includes:
  - (i) parts used in the repairs or renovation of a prosthetic device;
  - (ii) replacement parts for a prosthetic device;
  - (iii) a dental prosthesis; or
  - (iv) a hearing aid.
- (c) "Prosthetic device" does not include:
  - (i) corrective eyeglasses; or
  - (ii) contact lenses.

(97)

- (a) "Protective equipment" means an item:
  - (i) for human wear; and
  - (ii) that is:
    - (A) designed as protection:
      - (I) to the wearer against injury or disease; or
      - (II) against damage or injury of other persons or property; and
    - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
  - (i) listing the items that constitute "protective equipment"; and
  - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(98)

- (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
  - (i) regardless of:
    - (A) characteristics;
    - (B) copyright;
    - (C) form;
    - (D) format;
    - (E) method of reproduction; or
    - (F) source; and
  - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99)

- (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:
  - (A) sold;
  - (B) leased; or
  - (C) rented.
- (b) "Purchase price" and "sales price" include:
  - (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
  - (ii) expenses of the seller, including:
    - (A) the cost of materials used;
    - (B) a labor cost;
    - (C) a service cost;
    - (D) interest;
    - (E) a loss;
    - (F) the cost of transportation to the seller; or
    - (G) a tax imposed on the seller;
  - (iii) a charge by the seller for any service necessary to complete the sale; or
  - (iv) consideration a seller receives from a person other than the purchaser if:
    - (A)
      - (I) the seller actually receives consideration from a person other than the purchaser; and
      - (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
    - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
    - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
    - (D)
      - (I)
        - (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
        - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
      - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
      - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
        - (Aa) invoice the purchaser receives; or
        - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
  - (i) a discount:
    - (A) in a form including:
      - (I) cash;
      - (II) term; or
      - (III) coupon;

- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or
- (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
  - (A) the following from credit extended on the sale of tangible personal property or services:
    - (I) a carrying charge;
    - (II) a financing charge; or
    - (III) an interest charge;
  - (B) a delivery charge;
  - (C) an installation charge;
  - (D) a manufacturer rebate on a motor vehicle; or
  - (E) a tax or fee legally imposed directly on the consumer.
- (100) "Purchaser" means a person to whom:
  - (a) a sale of tangible personal property is made;
  - (b) a product is transferred electronically; or
  - (c) a service is furnished.
- (101) "Qualifying enterprise data center" means an establishment that will:
  - (a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;
  - (b) be located in the state;
  - (c) be a new operation constructed on or after July 1, 2016;
  - (d) consist of one or more buildings that total 150,000 or more square feet;
  - (e) be owned or leased by:
    - (i) the establishment; or
    - (ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and
  - (f) be located on one or more parcels of land that are owned or leased by:
    - (i) the establishment; or
    - (ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.
- (102) "Regularly rented" means:
  - (a) rented to a guest for value three or more times during a calendar year; or
  - (b) advertised or held out to the public as a place that is regularly rented to guests for value.
- (103) "Rental" is as defined in Subsection (59).
- (104)
  - (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:
    - (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
    - (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

- (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
  - (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.
- (b) "Repairs or renovations of tangible personal property" does not include:
- (i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or
  - (ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.
- (105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
- (106)
- (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:
- (i) at a residential address; or
  - (ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.
- (b) For purposes of Subsection (106)(a)(i), a residential address includes an:
- (i) apartment; or
  - (ii) other individual dwelling unit.
- (107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.
- (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- (a) resale;
  - (b) sublease; or
  - (c) subrent.
- (109)
- (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.
- (b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.
- (110)
- (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.
- (b) "Sale" includes:
- (i) installment and credit sales;
  - (ii) any closed transaction constituting a sale;

- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
  - (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
  - (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.
- (111) "Sale at retail" is as defined in Subsection (108).
- (112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:
- (a) by a purchaser-lessee;
  - (b) to a lessor;
  - (c) for consideration; and
  - (d) if:
    - (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;
    - (ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:
      - (A) for the tangible personal property or product transferred electronically; and
      - (B) to the purchaser-lessee; and
    - (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
      - (A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
      - (B) account for the lease payments as payments made under a financing arrangement.
- (113) "Sales price" is as defined in Subsection (99).
- (114)
- (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:
    - (i) sales that are directly related to the school's educational functions or activities including:
      - (A) the sale of:
        - (I) textbooks;
        - (II) textbook fees;
        - (III) laboratory fees;
        - (IV) laboratory supplies; or
        - (V) safety equipment;
      - (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
        - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
        - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
      - (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
        - (I) food and food ingredients; or
        - (II) prepared food; or
      - (D) transportation charges for official school activities; or
    - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
  - (b) "Sales relating to schools" does not include:

- (i) bookstore sales of items that are not educational materials or supplies;
  - (ii) except as provided in Subsection (114)(a)(i)(B):
    - (A) clothing;
    - (B) clothing accessories or equipment;
    - (C) protective equipment; or
    - (D) sports or recreational equipment; or
  - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
    - (A) other than a:
      - (I) school;
      - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
      - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
    - (B) that is required to collect sales and use taxes under this chapter.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."
- (115) For purposes of this section and Section 59-12-104, "school":
- (a) means:
    - (i) an elementary school or a secondary school that:
      - (A) is a:
        - (I) public school; or
        - (II) private school; and
      - (B) provides instruction for one or more grades kindergarten through 12; or
    - (ii) a public school district; and
  - (b) includes the Electronic High School as defined in Section 53A-15-1002.
- (116) "Seller" means a person that makes a sale, lease, or rental of:
- (a) tangible personal property;
  - (b) a product transferred electronically; or
  - (c) a service.
- (117)
- (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:
    - (i) used primarily in the process of:
      - (A)
        - (I) manufacturing a semiconductor;
        - (II) fabricating a semiconductor; or
        - (III) research or development of a:
          - (Aa) semiconductor; or
          - (Bb) semiconductor manufacturing process; or
      - (B) maintaining an environment suitable for a semiconductor; or
    - (ii) consumed primarily in the process of:
      - (A)
        - (I) manufacturing a semiconductor;
        - (II) fabricating a semiconductor; or
        - (III) research or development of a:
          - (Aa) semiconductor; or

- (Bb) semiconductor manufacturing process; or
  - (B) maintaining an environment suitable for a semiconductor.
- (b) "Semiconductor fabricating, processing, research, or development materials" includes:
  - (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or
  - (ii) a chemical, catalyst, or other material used to:
    - (A) produce or induce in a semiconductor a:
      - (I) chemical change; or
      - (II) physical change;
    - (B) remove impurities from a semiconductor; or
    - (C) improve the marketable condition of a semiconductor.
- (118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.
- (119)
  - (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:
    - (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;
    - (ii) is intended to be consumed by the purchaser; and
    - (iii) is:
      - (A) included in the purchase price of the accommodations and services; and
      - (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.
  - (b) "Short-term lodging consumable" includes:
    - (i) a beverage;
    - (ii) a brush or comb;
    - (iii) a cosmetic;
    - (iv) a hair care product;
    - (v) lotion;
    - (vi) a magazine;
    - (vii) makeup;
    - (viii) a meal;
    - (ix) mouthwash;
    - (x) nail polish remover;
    - (xi) a newspaper;
    - (xii) a notepad;
    - (xiii) a pen;
    - (xiv) a pencil;
    - (xv) a razor;
    - (xvi) saline solution;
    - (xvii) a sewing kit;
    - (xviii) shaving cream;
    - (xix) a shoe shine kit;
    - (xx) a shower cap;
    - (xxi) a snack item;
    - (xxii) soap;
    - (xxiii) toilet paper;

- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (c) "Short-term lodging consumable" does not include:
  - (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
  - (ii) a product transferred electronically.
- (120) "Simplified electronic return" means the electronic return:
  - (a) described in Section 318(C) of the agreement; and
  - (b) approved by the governing board of the agreement.
- (121) "Solar energy" means the sun used as the sole source of energy for producing electricity.
- (122)
  - (a) "Sports or recreational equipment" means an item:
    - (i) designed for human use; and
    - (ii) that is:
      - (A) worn in conjunction with:
        - (I) an athletic activity; or
        - (II) a recreational activity; and
      - (B) not suitable for general use.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
    - (i) listing the items that constitute "sports or recreational equipment"; and
    - (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.
- (123) "State" means the state of Utah, its departments, and agencies.
- (124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.
- (125)
  - (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:
    - (i) may be:
      - (A) seen;
      - (B) weighed;
      - (C) measured;
      - (D) felt; or
      - (E) touched; or
    - (ii) is in any manner perceptible to the senses.
  - (b) "Tangible personal property" includes:
    - (i) electricity;
    - (ii) water;
    - (iii) gas;
    - (iv) steam; or
    - (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
  - (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
  - (ii) a dryer;
  - (iii) a freezer;
  - (iv) a microwave;
  - (v) a refrigerator;
  - (vi) a stove;
  - (vii) a washer; or
  - (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (d) "Tangible personal property" does not include a product that is transferred electronically.
- (e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (i) a hot water heater;
  - (ii) a water filtration system; or
  - (iii) a water softener system.
- (126)
- (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:
- (i) telecommunications switching or routing equipment, machinery, or software; or
  - (ii) telecommunications transmission equipment, machinery, or software.
- (b) The following apply to Subsection (126)(a):
- (i) a pole;
  - (ii) software;
  - (iii) a supplementary power supply;
  - (iv) temperature or environmental equipment or machinery;
  - (v) test equipment;
  - (vi) a tower; or
  - (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).
- (127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.
- (128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:
- (a) telecommunications enabling or facilitating equipment, machinery, or software;
  - (b) telecommunications switching or routing equipment, machinery, or software; or
  - (c) telecommunications transmission equipment, machinery, or software.
- (129)

- (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.
- (b) "Telecommunications service" includes:
  - (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
    - (A) on the code, form, or protocol of the content;
    - (B) for the purpose of electronic conveyance, routing, or transmission; and
    - (C) regardless of whether the service:
      - (I) is referred to as voice over Internet protocol service; or
      - (II) is classified by the Federal Communications Commission as enhanced or value added;
  - (ii) an 800 service;
  - (iii) a 900 service;
  - (iv) a fixed wireless service;
  - (v) a mobile wireless service;
  - (vi) a postpaid calling service;
  - (vii) a prepaid calling service;
  - (viii) a prepaid wireless calling service; or
  - (ix) a private communications service.
- (c) "Telecommunications service" does not include:
  - (i) advertising, including directory advertising;
  - (ii) an ancillary service;
  - (iii) a billing and collection service provided to a third party;
  - (iv) a data processing and information service if:
    - (A) the data processing and information service allows data to be:
      - (I)
        - (Aa) acquired;
        - (Bb) generated;
        - (Cc) processed;
        - (Dd) retrieved; or
        - (Ee) stored; and
      - (II) delivered by an electronic transmission to a purchaser; and
    - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
  - (v) installation or maintenance of the following on a customer's premises:
    - (A) equipment; or
    - (B) wiring;
  - (vi) Internet access service;
  - (vii) a paging service;
  - (viii) a product transferred electronically, including:
    - (A) music;
    - (B) reading material;
    - (C) a ring tone;
    - (D) software; or
    - (E) video;
  - (ix) a radio and television audio and video programming service:
    - (A) regardless of the medium; and
    - (B) including:

- (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
- (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130)

(a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131)

(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132)

(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or
- (xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133)

- (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:
- (i) offered by an institution of higher education; and
  - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136)

- (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.
  - (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.
- (137) "Value-added nonvoice data service" means a service:
- (a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and
  - (b) with respect to which a computer processing application is used to act on data or information:
    - (i) code;
    - (ii) content;
    - (iii) form; or
    - (iv) protocol.
- (138)
- (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:
    - (i) an aircraft as defined in Section 72-10-102;
    - (ii) a vehicle as defined in Section 41-1a-102;
    - (iii) an off-highway vehicle as defined in Section 41-22-2; or
    - (iv) a vessel as defined in Section 41-1a-102.
  - (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
    - (i) a vehicle described in Subsection (138)(a); or
    - (ii)
      - (A) a locomotive;
      - (B) a freight car;
      - (C) railroad work equipment; or
      - (D) other railroad rolling stock.
- (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).
- (140)
- (a) "Vertical service" means an ancillary service that:
    - (i) is offered in connection with one or more telecommunications services; and
    - (ii) offers an advanced calling feature that allows a customer to:
      - (A) identify a caller; and
      - (B) manage multiple calls and call connections.
  - (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.
- (141)
- (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.
  - (b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.
- (142)
- (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

- (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:
  - (A) tires;
  - (B) waste coal;
  - (C) oil shale; or
  - (D) municipal solid waste; and
- (ii) in amounts greater than actually required for the operation of the facility.
- (b) "Waste energy facility" does not include a facility that incinerates:
  - (i) hospital waste as defined in 40 C.F.R. 60.51c; or
  - (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- (143) "Watercraft" means a vessel as defined in Section 73-18-2.
- (144) "Wind energy" means wind used as the sole source of energy to produce electricity.
- (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Amended by Chapter 6, 2016 Special Session 3

**59-12-102.3 Authority to enter into agreement -- Delegates.**

- (1) The commission may apply to the governing board for the state to become a party to the agreement.
- (2) If the state becomes a party to the agreement, the commission may:
  - (a) establish standards for certification of a:
    - (i) certified automated system; and
    - (ii) certified service provider;
  - (b) act jointly with other states that are parties to the agreement to establish performance standards for multistate sellers; and
  - (c) take other actions reasonably required to implement provisions of the agreement:
    - (i) if those actions are not in conflict with statute; and
    - (ii) subject to Subsection (2)(c)(i), including:
      - (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopting administrative rules; and
      - (B) in furtherance of the agreement, jointly procuring goods or services with other states that are parties to the agreement.
- (3) Subject to Subsection (4), delegates shall be appointed to the governing board of the agreement to:
  - (a) assist in implementing the provisions of the agreement; and
  - (b) address other matters as determined by the governing board.
- (4) Delegates shall be appointed as follows:
  - (a) two delegates shall be legislators appointed by mutual consent of the speaker of the House of Representatives and the president of the Senate; and
  - (b) two delegates shall be appointed by the governor, at least one of whom shall be from the commission.

Amended by Chapter 285, 2011 General Session

**59-12-103 Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

- (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:
  - (a) retail sales of tangible personal property made within the state;
  - (b) amounts paid for:
    - (i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
    - (ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
    - (iii) an ancillary service associated with a:
      - (A) telecommunications service described in Subsection (1)(b)(i); or
      - (B) mobile telecommunications service described in Subsection (1)(b)(ii);
  - (c) sales of the following for commercial use:
    - (i) gas;
    - (ii) electricity;
    - (iii) heat;
    - (iv) coal;
    - (v) fuel oil; or
    - (vi) other fuels;
  - (d) sales of the following for residential use:
    - (i) gas;
    - (ii) electricity;
    - (iii) heat;
    - (iv) coal;
    - (v) fuel oil; or
    - (vi) other fuels;
  - (e) sales of prepared food;
  - (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
  - (g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
    - (i) the tangible personal property; and
    - (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:
      - (A) any parts are actually used in the repairs or renovations of that tangible personal property; or
      - (B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;
  - (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

- (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;
  - (j) amounts paid or charged for laundry or dry cleaning services;
  - (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:
    - (i) stored;
    - (ii) used; or
    - (iii) otherwise consumed;
  - (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:
    - (i) stored;
    - (ii) used; or
    - (iii) consumed; and
  - (m) amounts paid or charged for a sale:
    - (i)
      - (A) of a product transferred electronically; or
      - (B) of a repair or renovation of a product transferred electronically; and
    - (ii) regardless of whether the sale provides:
      - (A) a right of permanent use of the product; or
      - (B) a right to use the product that is less than a permanent use, including a right:
        - (I) for a definite or specified length of time; and
        - (II) that terminates upon the occurrence of a condition.
- (2)
- (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
    - (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
      - (A) 4.70%; and
      - (B)
        - (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and
        - (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
    - (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.
  - (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
    - (i) a state tax imposed on the transaction at a tax rate of 2%; and
    - (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.
  - (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:
    - (i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.
- (d)
  - (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:
    - (A) a state tax imposed on the entire bundled transaction equal to the sum of:
      - (I) the tax rate described in Subsection (2)(a)(i)(A); and
      - (II)
        - (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and
        - (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
    - (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).
  - (ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.
  - (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):
    - (A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:
      - (I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or
      - (II) state or federal law provides otherwise; or
    - (B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:
      - (I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or
      - (II) state or federal law provides otherwise.
  - (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.
- (e)

- (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:
    - (A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or
    - (B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.
  - (ii) A purchaser and a seller may correct the taxability of a transaction if:
    - (A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and
    - (B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.
  - (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.
- (f)
- (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:
    - (A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or
    - (B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.
  - (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.
- (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:
- (i) Subsection (2)(a)(i)(A);
  - (ii) Subsection (2)(b)(i);
  - (iii) Subsection (2)(c)(i); or
  - (iv) Subsection (2)(d)(i)(A)(I).
- (h)
- (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:
    - (A) Subsection (2)(a)(i)(A);
    - (B) Subsection (2)(b)(i);
    - (C) Subsection (2)(c)(i); or

- (D) Subsection (2)(d)(i)(A)(I).
- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
  - (A) Subsection (2)(a)(i)(A);
  - (B) Subsection (2)(b)(i);
  - (C) Subsection (2)(c)(i); or
  - (D) Subsection (2)(d)(i)(A)(I).
- (i)
  - (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
  - (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
    - (A) Subsection (2)(a)(i)(A);
    - (B) Subsection (2)(b)(i);
    - (C) Subsection (2)(c)(i); or
    - (D) Subsection (2)(d)(i)(A)(I).
  - (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (3)
  - (a) The following state taxes shall be deposited into the General Fund:
    - (i) the tax imposed by Subsection (2)(a)(i)(A);
    - (ii) the tax imposed by Subsection (2)(b)(i);
    - (iii) the tax imposed by Subsection (2)(c)(i); or
    - (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
  - (b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:
    - (i) the tax imposed by Subsection (2)(a)(ii);
    - (ii) the tax imposed by Subsection (2)(b)(ii);
    - (iii) the tax imposed by Subsection (2)(c)(ii); and
    - (iv) the tax imposed by Subsection (2)(d)(i)(B).
- (4)
  - (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):
    - (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
      - (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
      - (B) for the fiscal year; or
    - (ii) \$17,500,000.
  - (b)
    - (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:
      - (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

- (B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- (ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- (iii) At the end of each fiscal year:
  - (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
  - (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
  - (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.
- (d)
  - (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.
  - (ii) At the end of each fiscal year:
    - (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
    - (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
    - (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- (e)
  - (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
  - (ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:
    - (A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;
    - (B) fund state required dam safety improvements; and
    - (C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.
- (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

- (i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;
- (ii) develop underground sources of water, including springs and wells; and
- (iii) develop surface water sources.

(5)

(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

- (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
- (ii) \$17,500,000.

(b)

- (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
  - (A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and
  - (B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

- (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)

- (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:
  - (A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and
  - (B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

- (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

- (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and
- (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

- (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

- (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

- (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

- (e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.
- (f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.
- (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:
  - (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;
  - (b) for fiscal year 2017-18 only:
    - (i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and
    - (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;
  - (c) for fiscal year 2018-19 only:
    - (i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and
    - (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;
  - (d) for fiscal year 2019-20 only:
    - (i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and
    - (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;
  - (e) for fiscal year 2020-21 only:
    - (i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and
    - (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and
  - (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.
- (7)
  - (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:
    - (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:
      - (A) the tax imposed by Subsection (2)(a)(i)(A);
      - (B) the tax imposed by Subsection (2)(b)(i);
      - (C) the tax imposed by Subsection (2)(c)(i); and
      - (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

- (ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.
- (b)
  - (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:
    - (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and
    - (B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.
  - (ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).
  - (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).
- (8)
  - (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.
  - (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.
  - (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of Finance shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:
    - (i) the tax imposed by Subsection (2)(a)(i)(A);
    - (ii) the tax imposed by Subsection (2)(b)(i);
    - (iii) the tax imposed by Subsection (2)(c)(i); and
    - (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
- (10)

- (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).
- (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:
  - (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
  - (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
  - (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
  - (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and
  - (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).
- (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).
- (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.
- (12)
  - (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3) (a) into the Throughput Infrastructure Fund created by Section 35A-8-308.
  - (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3) (a) into the Throughput Infrastructure Fund created by Section 35A-8-308.
- (13) Notwithstanding Subsections (4) through (12), an amount required to be expended or deposited in accordance with Subsections (4) through (12) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Amended by Chapter 184, 2016 General Session

Amended by Chapter 291, 2016 General Session

Amended by Chapter 348, 2016 General Session

**59-12-103.1 Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim**

**Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirement to make certain deposits.**

- (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the commission as provided in Section 59-12-107 if:
  - (a) the Supreme Court of the United States issues a decision authorizing a state to require the following sellers to collect a sales or use tax:
    - (i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or
    - (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); or
  - (b) Congress permits the state to require the following sellers to collect a sales or use tax:
    - (i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or
    - (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b).
- (2) The commission shall:
  - (a) collect the tax described in Subsection (1) from the seller:
    - (i) to the extent:
      - (A) authorized by the Supreme Court of the United States; or
      - (B) permitted by Congress; and
    - (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and Taxation Interim Committee; and
  - (b) make a report to the Revenue and Taxation Interim Committee by electronic means:
    - (i) regarding the actions taken by:
      - (A) the Supreme Court of the United States; or
      - (B) Congress; and
    - (ii)
      - (A) stating the amount of state revenue collected at the time of the report, if any; and
      - (B) estimating the state sales and use tax rate reduction that would offset the amount of state revenue estimated to be collected for the current fiscal year and the next fiscal year; and
  - (c) report to the Revenue and Taxation Interim Committee at:
    - (i) the Revenue and Taxation Interim Committee meeting immediately following the day on which the actions of the Supreme Court of the United States or Congress become effective; and
    - (ii) any other meeting of the Revenue and Taxation Interim Committee as requested by the chairs of the committee.
- (3) The Revenue and Taxation Interim Committee shall after receiving the commission's reports under Subsections (2)(b) and (c):
  - (a) review the actions taken by:
    - (i) the Supreme Court of the United States; or
    - (ii) Congress;
  - (b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and
  - (c) make recommendations to the Legislative Management Committee:
    - (i) regarding whether as a result of the actions of the Supreme Court of the United States or Congress any provisions of this chapter should be amended or repealed; and
    - (ii) within a one-year period after the day on which the commission makes a report under Subsection (2)(c).

- (4) The Division of Finance shall deposit a portion of the revenue collected under this section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

Amended by Chapter 135, 2016 General Session

**59-12-103.2 Definitions -- Remote Sales Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance accounting.**

- (1) As used in this section:
  - (a) "Qualified local revenue collected from remote sellers" means the local revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:
    - (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or
    - (ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).
  - (b) "Qualified state revenue collected from remote sellers" means the state revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:
    - (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or
    - (ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).
- (2) There is created within the General Fund a restricted account known as the "Remote Sales Restricted Account."
- (3) The account shall be funded by:
  - (a) the qualified local revenue collected from remote sellers; and
  - (b) the qualified state revenue collected from remote sellers.
- (4)
  - (a) The account shall earn interest.
  - (b) The interest described in Subsection (4)(a) shall be deposited into the account.
- (5) The Division of Finance shall deposit the revenue described in Subsection (3) into the account.
- (6) The Division of Finance shall separately account for:
  - (a)
    - (i) the qualified local revenue collected from remote sellers; and
    - (ii) interest earned on the amount described in Subsection (6)(a)(i); and
  - (b)
    - (i) the qualified state revenue collected from remote sellers; and
    - (ii) interest earned on the amount described in Subsection (6)(b)(i).
- (7)
  - (a) The revenue and interest described in Subsection (6)(a) may be used to lower local sales and use tax rates as the Legislature may provide by statute.
  - (b) The revenue and interest described in Subsection (6)(b) may be used to lower state sales and use tax rates as the Legislature may provide by statute.

Amended by Chapter 150, 2013 General Session

**59-12-104 Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

- (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

- (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:
  - (a) construction materials except:
    - (i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and
    - (ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or
  - (b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;
- (3)
  - (a) sales of an item described in Subsection (3)(b) from a vending machine if:
    - (i) the proceeds of each sale do not exceed \$1; and
    - (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and
  - (b) Subsection (3)(a) applies to:
    - (i) food and food ingredients; or
    - (ii) prepared food;
- (4)
  - (a) sales of the following to a commercial airline carrier for in-flight consumption:
    - (i) alcoholic beverages;
    - (ii) food and food ingredients; or
    - (iii) prepared food;
  - (b) sales of tangible personal property or a product transferred electronically:
    - (i) to a passenger;
    - (ii) by a commercial airline carrier; and
    - (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
  - (c) services related to Subsection (4)(a) or (b);
- (5)
  - (a)
    - (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:
      - (A)
        - (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
        - (II) for:
          - (Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;
          - (Bb) renovation of an aircraft; or
          - (Cc) repair of an aircraft; or
      - (B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or
    - (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

- (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:
  - (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
  - (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
  - (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;
  - (iv) for sales and use taxes paid under this chapter on the sale;
  - (v) in accordance with Section 59-1-1410; and
  - (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;
- (6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;
- (7)
  - (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;
  - (b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7) (a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and
  - (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
    - (i) governing the circumstances under which sales are at the same business location; and
    - (ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;
- (8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;
- (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:
  - (a) not registered in this state; and
  - (b)
    - (i) not used in this state; or
    - (ii) used in this state:
      - (A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:
        - (I) 30 days in any calendar year; or
        - (II) the time period necessary to transport the vehicle to the borders of this state; or
      - (B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;
- (10)
  - (a) amounts paid for an item described in Subsection (10)(b) if:
    - (i) the item is intended for human use; and
    - (ii)
      - (A) a prescription was issued for the item; or
      - (B) the item was purchased by a hospital or other medical facility; and
  - (b)

- (i) Subsection (10)(a) applies to:
  - (A) a drug;
  - (B) a syringe; or
  - (C) a stoma supply; and
- (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:
  - (A) "syringe"; or
  - (B) "stoma supply";
- (11) purchases or leases exempt under Section 19-12-201;
- (12)
  - (a) sales of an item described in Subsection (12)(c) served by:
    - (i) the following if the item described in Subsection (12)(c) is not available to the general public:
      - (A) a church; or
      - (B) a charitable institution;
    - (ii) an institution of higher education if:
      - (A) the item described in Subsection (12)(c) is not available to the general public; or
      - (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or
  - (b) sales of an item described in Subsection (12)(c) provided for a patient by:
    - (i) a medical facility; or
    - (ii) a nursing facility; and
  - (c) Subsections (12)(a) and (b) apply to:
    - (i) food and food ingredients;
    - (ii) prepared food; or
    - (iii) alcoholic beverages;
- (13)
  - (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:
    - (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
    - (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
  - (b) this Subsection (13) does not apply if:
    - (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
    - (ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
    - (iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or
    - (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:
      - (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or
      - (B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and
  - (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

- (i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
  - (ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or
  - (iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- (14)
- (a) amounts paid or charged for a purchase or lease:
    - (i) by a manufacturing facility located in the state; and
    - (ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:
      - (A) in the manufacturing process to manufacture an item sold as tangible personal property; or
      - (B) for a scrap recycler, to process an item sold as tangible personal property;
  - (b) amounts paid or charged for a purchase or lease:
    - (i) by an establishment:
      - (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
      - (B) located in the state; and
    - (ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:
      - (A) the production process to produce an item sold as tangible personal property;
      - (B) research and development;
      - (C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;
      - (D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or
      - (E) preventing, controlling, or reducing dust or other pollutants from mining;
  - (c) amounts paid or charged for a purchase or lease:
    - (i) by an establishment:
      - (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
      - (B) located in the state; and
    - (ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:
      - (A) are used in the operation of the web search portal; and
      - (B) have an economic life of three or more years; and
  - (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:
    - (i) shall by rule define the term "establishment"; and
    - (ii) may by rule define what constitutes:
      - (A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development;

(15)

(a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17)

(a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18)

(a)

(i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

- (ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and
- (b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:
  - (i)
    - (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:
      - (I) machinery;
      - (II) equipment;
      - (III) materials; or
      - (IV) supplies; and
    - (B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:
      - (I) hand tools; or
      - (II) maintenance and janitorial equipment and supplies;
  - (ii)
    - (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and
    - (B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:
      - (I) office equipment and supplies; or
      - (II) equipment and supplies used in:
        - (Aa) the sale or distribution of farm products;
        - (Bb) research; or
        - (Cc) transportation; or
  - (iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;
- (19) sales of hay;
- (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:
  - (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;
  - (b) an employee of the producer described in Subsection (20)(a); or
  - (c) a member of the immediate family of the producer described in Subsection (20)(a);
- (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (23) a product stored in the state for resale;
- (24)
  - (a) purchases of a product if:
    - (i) the product is:
      - (A) purchased outside of this state;
      - (B) brought into this state;

- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
  - (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
  - (B) a boat, the boat is registered outside of this state; or
  - (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
  - (i) a lease or rental of a product; or
  - (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
  - (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
  - (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
  - (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
  - (a) not registered in this state; and
  - (b)
    - (i) not used in this state; or
    - (ii) used in this state:
      - (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
        - (I) 30 days in any calendar year; or

- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
  - (a) a vehicle by an authorized carrier; or
  - (b) tangible personal property that is installed on a vehicle:
    - (i) sold or leased to or used by an authorized carrier; and
    - (ii) before the vehicle is placed in service for the first time;
- (34)
  - (a) 45% of the sales price of any new manufactured home; and
  - (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
  - (a) a person presents a prescription for the durable medical equipment; and
  - (b) the durable medical equipment is used for home use only;
- (37)
  - (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
  - (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
  - (a) snowmaking equipment;
  - (b) ski slope grooming equipment;
  - (c) passenger ropeways as defined in Section 72-11-102; or
  - (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40)
  - (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
  - (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
  - (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
    - (i) governing the circumstances under which sales are at the same business location; and
    - (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;
- (41)
  - (a) sales of photocopies by:

- (i) a governmental entity; or
  - (ii) an entity within the state system of public education, including:
    - (A) a school; or
    - (B) the State Board of Education; or
- (b) sales of publications by a governmental entity;
- (42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- (43)
  - (a) sales made to or by:
    - (i) an area agency on aging; or
    - (ii) a senior citizen center owned by a county, city, or town; or
  - (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:
  - (a) actually come into contact with a semiconductor; or
  - (b) ultimately become incorporated into real property;
- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;
- (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;
- (47)
  - (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;
  - (b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;
- (49) sales of water in a:
  - (a) pipe;
  - (b) conduit;
  - (c) ditch; or
  - (d) reservoir;
- (50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;
- (51)
  - (a) sales of an item described in Subsection (51)(b) if the item:
    - (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
    - (ii) has a gold, silver, or platinum content of 50% or more; and
  - (b) Subsection (51)(a) applies to a gold, silver, or platinum:
    - (i) ingot;
    - (ii) bar;

- (iii) medallion; or
- (iv) decorative coin;
- (52) amounts paid on a sale-leaseback transaction;
- (53) sales of a prosthetic device:
  - (a) for use on or in a human; and
  - (b)
    - (i) for which a prescription is required; or
    - (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- (54)
  - (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:
    - (i) a motion picture;
    - (ii) a television program;
    - (iii) a movie made for television;
    - (iv) a music video;
    - (v) a commercial;
    - (vi) a documentary; or
    - (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or
  - (b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:
    - (i) a live musical performance;
    - (ii) a live news program; or
    - (iii) a live sporting event;
  - (c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):
    - (i) NAICS Code 512110; or
    - (ii) NAICS Code 51219; and
  - (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:
    - (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or
    - (ii) define:
      - (A) "commercial distribution";
      - (B) "live musical performance";
      - (C) "live news program"; or
      - (D) "live sporting event";
- (55)
  - (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
    - (i) is leased or purchased for or by a facility that:
      - (A) is an alternative energy electricity production facility;
      - (B) is located in the state; and
    - (C)
      - (i) becomes operational on or after July 1, 2004; or

- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
  - (ii) has an economic life of five or more years; and
  - (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
    - (A) a wind turbine;
    - (B) generating equipment;
    - (C) a control and monitoring system;
    - (D) a power line;
    - (E) substation equipment;
    - (F) lighting;
    - (G) fencing;
    - (H) pipes; or
    - (I) other equipment used for locating a power line or pole; and
  - (b) this Subsection (55) does not apply to:
    - (i) tangible personal property used in construction of:
      - (A) a new alternative energy electricity production facility; or
      - (B) the increase in the capacity of an alternative energy electricity production facility;
    - (ii) contracted services required for construction and routine maintenance activities; and
    - (iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:
      - (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
      - (B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);
- (56)
- (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
    - (i) is leased or purchased for or by a facility that:
      - (A) is a waste energy production facility;
      - (B) is located in the state; and
      - (C)
        - (I) becomes operational on or after July 1, 2004; or
        - (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
    - (ii) has an economic life of five or more years; and
    - (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
      - (A) generating equipment;
      - (B) a control and monitoring system;
      - (C) a power line;
      - (D) substation equipment;
      - (E) lighting;
      - (F) fencing;
      - (G) pipes; or

- (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:
  - (i) tangible personal property used in construction of:
    - (A) a new waste energy facility; or
    - (B) the increase in the capacity of a waste energy facility;
  - (ii) contracted services required for construction and routine maintenance activities; and
  - (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
    - (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or
    - (B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57)

- (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
  - (i) is leased or purchased for or by a facility that:
    - (A) is located in the state;
    - (B) produces fuel from alternative energy, including:
      - (I) methanol; or
      - (II) ethanol; and
    - (C)
      - (I) becomes operational on or after July 1, 2004; or
      - (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;
  - (ii) has an economic life of five or more years; and
  - (iii) is installed on the facility described in Subsection (57)(a)(i);
- (b) this Subsection (57) does not apply to:
  - (i) tangible personal property used in construction of:
    - (A) a new facility described in Subsection (57)(a)(i); or
    - (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
  - (ii) contracted services required for construction and routine maintenance activities; and
  - (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
    - (A) the facility described in Subsection (57)(a)(i) is operational; or
    - (B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58)

- (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;
- (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:
  - (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

- (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;
  - (iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;
  - (iv) for sales and use taxes paid under this chapter on the sale;
  - (v) in accordance with Section 59-1-1410; and
  - (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;
- (59) purchases:
- (a) of one or more of the following items in printed or electronic format:
    - (i) a list containing information that includes one or more:
      - (A) names; or
      - (B) addresses; or
    - (ii) a database containing information that includes one or more:
      - (A) names; or
      - (B) addresses; and
  - (b) used to send direct mail;
- (60) redemptions or repurchases of a product by a person if that product was:
- (a) delivered to a pawnbroker as part of a pawn transaction; and
  - (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;
- (61)
- (a) purchases or leases of an item described in Subsection (61)(b) if the item:
    - (i) is purchased or leased by, or on behalf of, a telecommunications service provider; and
    - (ii) has a useful economic life of one or more years; and
  - (b) the following apply to Subsection (61)(a):
    - (i) telecommunications enabling or facilitating equipment, machinery, or software;
    - (ii) telecommunications equipment, machinery, or software required for 911 service;
    - (iii) telecommunications maintenance or repair equipment, machinery, or software;
    - (iv) telecommunications switching or routing equipment, machinery, or software; or
    - (v) telecommunications transmission equipment, machinery, or software;
- (62)
- (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and
  - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;
- (63)
- (a) purchases of tangible personal property or a product transferred electronically if:
    - (i) the tangible personal property or product transferred electronically is:
      - (A) purchased outside of this state;
      - (B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and
      - (C) used in conducting business in this state; and
    - (ii) for:

- (A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or
- (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (63)(a) does not apply to:
  - (i) a lease or rental of tangible personal property or a product transferred electronically; or
  - (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:
  - (i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
  - (ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
  - (iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- (64) sales of disposable home medical equipment or supplies if:
  - (a) a person presents a prescription for the disposable home medical equipment or supplies;
  - (b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and
  - (c) the disposable home medical equipment and supplies are listed as eligible for payment under:
    - (i) Title XVIII, federal Social Security Act; or
    - (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- (65) sales:
  - (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
  - (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:
    - (i) clearly identified; and
    - (ii) installed or converted to real property owned by the public transit district;
- (66) sales of construction materials:
  - (a) purchased on or after July 1, 2010;
  - (b) purchased by, on behalf of, or for the benefit of an international airport:
    - (i) located within a county of the first class; and
    - (ii) that has a United States customs office on its premises; and
  - (c) if the construction materials are:
    - (i) clearly identified;
    - (ii) segregated; and
    - (iii) installed or converted to real property:
      - (A) owned or operated by the international airport described in Subsection (66)(b); and
      - (B) located at the international airport described in Subsection (66)(b);
- (67) sales of construction materials:
  - (a) purchased on or after July 1, 2008;
  - (b) purchased by, on behalf of, or for the benefit of a new airport:
    - (i) located within a county of the second class; and
    - (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and
  - (c) if the construction materials are:
    - (i) clearly identified;

- (ii) segregated; and
- (iii) installed or converted to real property:
  - (A) owned or operated by the new airport described in Subsection (67)(b);
  - (B) located at the new airport described in Subsection (67)(b); and
  - (C) as part of the construction of the new airport described in Subsection (67)(b);
- (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- (69) purchases and sales described in Section 63H-4-111;
- (70)
  - (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or
  - (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;
- (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
  - (a) to a person admitted to an institution of higher education; and
  - (b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;
- (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;
- (73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:
  - (a) clearly identified;
  - (b) segregated; and
  - (c) installed or converted to real property;
- (74) amounts paid or charged for:
  - (a) a purchase or lease of machinery and equipment that:
    - (i) are used in performing qualified research:
      - (A) as defined in Section 41(d), Internal Revenue Code; and
      - (B) in the state; and
    - (ii) have an economic life of three or more years; and
  - (b) normal operating repair or replacement parts:
    - (i) for the machinery and equipment described in Subsection (74)(a); and
    - (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
  - (a) for a sale:
    - (i) the ownership of the seller and the ownership of the purchaser are identical; and
    - (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
  - (b) for a lease:
    - (i) the ownership of the lessor and the ownership of the lessee are identical; and

- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76)
- (a) purchases of machinery or equipment if:
    - (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
    - (ii) the machinery or equipment:
      - (A) has an economic life of three or more years; and
      - (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
    - (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
      - (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
      - (B) subject to taxation under this chapter; and
  - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
    - (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
    - (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
  - (b) not including amounts paid or charged for a:
    - (i) digital audiowork;
    - (ii) digital audio-visual work; or
    - (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
    - (i) are used in the operation of the electronic financial payment service; and
    - (ii) have an economic life of three or more years; and
  - (b) normal operating repair or replacement parts that:
    - (i) are used in the operation of the electronic financial payment service; and
    - (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
  - (b) is temporarily brought into the state from another state:
    - (i) during a disaster period as defined in Section 53-2a-1202;
    - (ii) by an out-of-state business as defined in Section 53-2a-1202;
    - (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
    - (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;
- (83) amounts paid or charged for a purchase or lease of molten magnesium;
- (84)
  - (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:
    - (i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and
    - (ii) except for office:
      - (A) equipment; or
      - (B) supplies; and
  - (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:
    - (i) of 50% of the tax paid on the amounts paid or charged; and
    - (ii) in accordance with Section 59-1-1410; and
- (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:
  - (a) are used in the operation of the establishment; and
  - (b) have an economic life of one or more years.

Amended by Chapter 6, 2016 Special Session 3

**59-12-104.1 Exemptions for religious or charitable institutions.**

- (1) Except as provided in Section 59-12-104, sales made by religious or charitable institutions or organizations are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions or activities.
- (2)
  - (a) Except as provided in Section 59-12-104, sales made to a religious or charitable institution or organization are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions and activities.
  - (b) In order to facilitate the efficient administration of the exemption granted by this section, the exemption shall be administered as follows:
    - (i) the exemption shall be at point of sale if the sale is in the amount of at least \$1,000;
    - (ii) except as provided in Subsection (2)(b)(iii), if the sale is less than \$1,000, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale; and
    - (iii) notwithstanding Subsection (2)(b)(ii), the exemption under this section shall be at point of sale if the sale is:
      - (A) made pursuant to a contract between the seller and the charitable or religious institution or organization; or
      - (B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable institution or organization.
- (3)

- (a) Religious or charitable institutions or organizations entitled to a refund under Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.
- (b) The commission shall designate the following by commission rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (i) procedures for applying for a sales and use tax refund;
  - (ii) standards for determining and verifying the amount of purchase at the point of sale;
  - (iii) procedures for submitting a request for refund on a monthly basis anytime the taxpayer has accumulated \$100 or more in sales tax payments; and
  - (iv) procedures for submitting a request for refund on a quarterly basis for any cumulative amount of sales tax payments.

Amended by Chapter 382, 2008 General Session

**59-12-104.2 Exemption for accommodations and services taxed by the Navajo Nation.**

- (1) As used in this section "tribal taxing area" means the geographical area that:
  - (a) is subject to the taxing authority of the Navajo Nation; and
  - (b) consists of:
    - (i) notwithstanding the issuance of a patent, all land:
      - (A) within the limits of an Indian reservation under the jurisdiction of the federal government; and
      - (B) including any rights-of-way running through the reservation; and
    - (ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.
- (2)
  - (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:
    - (i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:
      - (A) the state; and
      - (B) a tribal taxing area;
    - (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
    - (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and
    - (iv) the requirements of Subsection (4) are met.
  - (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):
    - (i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than \$0; and
    - (ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than \$0.
- (3) The difference described in Subsection (2)(b) is equal to the difference between:

- (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less
  - (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).
- (4)
- (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.
  - (b) The notice described in Subsection (4)(a) shall state:
    - (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);
    - (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and
    - (iii) the new rate of the tax described in Subsection (4)(b)(i).

Amended by Chapter 135, 2016 General Session

**59-12-104.3 Credit for certain repossessions of a motor vehicle.**

- (1)
- (a) Subject to Subsections (2) and (3), a seller that collects a tax under this chapter on the sale of a motor vehicle may claim a credit for a tax under this chapter for a motor vehicle that:
    - (i) has been repossessed; and
    - (ii) that the seller resells.
  - (b) A seller of a motor vehicle other than the seller that collects a tax under this chapter on the sale of that motor vehicle may claim a credit for a tax under this chapter:
    - (i) for a motor vehicle that the seller:
      - (A) repossessed; and
      - (B) resells; and
    - (ii) if the seller that collected the tax under this chapter on that motor vehicle:
      - (A) is no longer doing business in this state; and
      - (B) does not owe a tax under this chapter.
- (2) The amount of the credit allowed by Subsection (1) is equal to the product of:
- (a) the portion of the motor vehicle's purchase price that:
    - (i) was subject to a tax under this chapter; and
    - (ii) remains unpaid after the motor vehicle is resold; and
  - (b) the sum of the tax rates imposed:
    - (i) under this chapter;
    - (ii) on the motor vehicle's purchase price; and
    - (iii) on the date the motor vehicle was purchased by the person that owns the motor vehicle at the time of the repossession.
- (3) Except as provided in Subsection (4), if a seller recovers any portion of a motor vehicle's unpaid purchase price that is used to calculate a credit allowed by Subsection (1)(b), the seller shall report and remit a tax under this chapter to the commission:
- (a) on the portion of the motor vehicle's unpaid purchase price that:

- (i) the seller recovers; and
- (ii) is used to calculate the credit allowed by Subsection (1)(b); and
- (b) on a return filed for the time period for which the portion of the motor vehicle's unpaid purchase price is recovered.
- (4) A credit under this section may not be reduced by any amount of a motor vehicle's unpaid purchase price that a seller recovers as a result of reselling the vehicle, regardless of whether that amount is included in calculating a credit under this section.

Amended by Chapter 9, 2007 General Session

Amended by Chapter 120, 2007 General Session

**59-12-104.4 Seller recordkeeping for purposes of higher education textbook exemption -- Rulemaking authority.**

- (1) If a seller described in Subsection 59-12-104(71)(b) makes a sale of a textbook for a higher education course that is exempt under Subsection 59-12-104(71), the seller shall keep a record verifying that the textbook is a textbook for a higher education course.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
  - (a) prescribing the records a seller shall keep to verify that a textbook is a textbook for a higher education course; or
  - (b) to verify that 51% or more of a seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course.

Enacted by Chapter 314, 2011 General Session

**59-12-104.5 Revenue and Taxation Interim Committee review of sales and use taxes.**

The Revenue and Taxation Interim Committee shall:

- (1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program; and
- (2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program.

Amended by Chapter 135, 2016 General Session

**59-12-104.6 Procedure for claiming a sales and use tax exemption for certain lodging related purchases -- Rulemaking authority -- Applicability of section.**

- (1) As used in this section:
  - (a) "Designated establishment within the lodging industry" means an establishment described in NAICS Code 721110 or 721191 of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.
  - (b) "Exempt purchaser" means a person that:
    - (i) makes a lodging related purchase; and
    - (ii) may claim an exemption from a tax under this chapter for the purchase.
  - (c) "Lodging related purchase" means the purchase of the following from a seller that is a designated establishment within the lodging industry:

- (i) accommodations and services described in Subsection 59-12-103(1)(i); or
- (ii) any other tangible personal property, product, or service that is:
  - (A) purchased as part of a transaction that includes the purchase of accommodations and services described in Subsection (1)(c)(i); and
  - (B) included on the invoice, bill of sale, or similar document provided to the purchaser of the accommodations and services described in Subsection (1)(c)(i).
- (2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging related purchase:
  - (a) shall pay a tax that would otherwise be imposed under this chapter on the lodging related purchase but for the purchaser being allowed to claim an exemption from a tax under this chapter for the purchase; and
  - (b) may apply to the commission for a refund of the tax described in Subsection (2)(a) that the purchaser pays.
- (3) An exempt purchaser that makes a lodging related purchase may claim an exemption from a tax under this chapter at the point of sale if the exempt purchaser:
  - (a) is an agency or instrumentality of the United States;
  - (b) is exempt from a tax under this chapter on a lodging related purchase as authorized by a diplomatic tax exemption card issued by the United States; or
  - (c) may claim the exemption at the point of sale in accordance with Section 59-12-104.1.
- (4) An exempt purchaser that applies to the commission for a refund may not make an application to the commission for a refund more frequently than monthly.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:
  - (a) procedures for applying for a refund under this section;
  - (b) standards for determining and verifying the amount of a lodging related purchase by an exempt purchaser; and
  - (c) procedures for claiming a refund on a monthly basis.
- (6) This section does not apply to amounts taxed by the Navajo Nation that are exempt from sales and use taxes in accordance with Section 59-12-104.2.

Enacted by Chapter 288, 2011 General Session

**59-12-106 Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.**

- (1) As used in this section:
  - (a) "applicant" means a person that:
    - (i) is required by this section to obtain a license; and
    - (ii) submits an application:
      - (A) to the commission; and
      - (B) for a license under this section;
  - (b) "application" means an application for a license under this section;
  - (c) "fiduciary of the applicant" means a person that:
    - (i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and
    - (ii)
      - (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
      - (B) is a director of the applicant described in Subsection (1)(c)(i);

- (C) is an employee of the applicant described in Subsection (1)(c)(i);
- (D) is a partner of the applicant described in Subsection (1)(c)(i);
- (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
- (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (d) "fiduciary of the licensee" means a person that:
  - (i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and
  - (ii)
    - (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
    - (B) is a director of the licensee described in Subsection (1)(d)(i);
    - (C) is an employee of the licensee described in Subsection (1)(d)(i);
    - (D) is a partner of the licensee described in Subsection (1)(d)(i);
    - (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
    - (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (e) "license" means a license under this section; and
- (f) "licensee" means a person that is licensed under this section by the commission.
- (2)
  - (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.
  - (b) The license described in Subsection (2)(a):
    - (i) shall be granted and issued by the commission;
    - (ii) is not assignable;
    - (iii) is valid only for the person in whose name the license is issued;
    - (iv) is valid until:
      - (A) the person described in Subsection (2)(b)(iii):
        - (I) ceases to do business; or
        - (II) changes that person's business address; or
      - (B) the license is revoked by the commission; and
    - (v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:
      - (A) states the name and address of the applicant; and
      - (B) provides other information the commission may require.
  - (c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.
  - (d) The commission shall review an application and determine whether the applicant:
    - (i) meets the requirements of this section to be issued a license; and
    - (ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.
  - (e)
    - (i) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

- (A) a license under this section was revoked for a delinquency under this chapter for:
  - (I) the applicant;
  - (II) a fiduciary of the applicant; or
  - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or
- (B) there is a delinquency in paying a tax under this chapter for:
  - (I) the applicant;
  - (II) a fiduciary of the applicant; or
  - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.
- (ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:
  - (A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or
  - (B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.
- (f)
  - (i) A bond required by Subsection (2)(e) shall be:
    - (A) executed by:
      - (I) for an applicant, the applicant as principal, with a corporate surety; or
      - (II) for a licensee, the licensee as principal, with a corporate surety; and
    - (B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:
      - (I) the payment of any tax under this chapter;
      - (II) the payment of any:
        - (Aa) penalty as provided in Section 59-1-401; or
        - (Bb) interest as provided in Section 59-1-402; or
      - (III) any other obligation of the:
        - (Aa) applicant under this chapter; or
        - (Bb) licensee under this chapter.
  - (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:
    - (A) commission estimates of:
      - (I) an applicant's tax liability under this chapter; or
      - (II) a licensee's tax liability under this chapter; and
    - (B) any amount of a delinquency described in Subsection (2)(f)(iii).
  - (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):
    - (A) for an applicant, the amount of the delinquency is the sum of:
      - (I) the amount of any delinquency that served as a basis for revoking the license under this section of:
        - (Aa) the applicant;
        - (Bb) a fiduciary of the applicant; or
        - (Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or
      - (II) the amount of tax that any of the following owe under this chapter:
        - (Aa) the applicant;
        - (Bb) a fiduciary of the applicant; and

- (Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or
- (B) for a licensee, the amount of the delinquency is the sum of:
  - (I) the amount of any delinquency that served as a basis for revoking the license under this section of:
    - (Aa) the licensee;
    - (Bb) a fiduciary of the licensee; or
    - (Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or
  - (II) the amount of tax that any of the following owe under this chapter:
    - (Aa) the licensee;
    - (Bb) a fiduciary of the licensee; and
    - (Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.
- (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:
  - (A) be less than \$25,000; or
  - (B) exceed \$500,000.
- (g) If business is transacted at two or more separate places by one person, a separate license for each place of business is required.
- (h)
  - (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.
  - (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter, including:
    - (A) paying any:
      - (I) tax due under this chapter;
      - (II) penalty as provided in Section 59-1-401; or
      - (III) interest as provided in Section 59-1-402; and
    - (B) posting a bond in accordance with Subsections (2)(e) and (f).
- (i) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.
- (j) A license:
  - (i) is not required for any person engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; and
  - (ii) shall be issued to the person by the commission without a license fee.
- (3)
  - (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:
    - (i) bearing the name and address of the purchaser; and
    - (ii) providing that the property, item, or service was exempted under Section 59-12-104.
  - (b) An exemption certificate described in Subsection (3)(a):
    - (i) shall contain information as prescribed by the commission; and
    - (ii) if a paper exemption certificate is used, shall be signed by the purchaser.
  - (c)

- (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:
  - (A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or
  - (B) the information required by Subsections (3)(a) and (b).
- (ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:
  - (A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or
  - (B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.
- (iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:
  - (A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;
  - (B) could be applicable to that transaction; and
  - (C) is reasonable for the purchaser's type of business.
- (d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.
- (e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:
  - (i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or
  - (ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.
- (f)
  - (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:
    - (A) renew an exemption certificate;
    - (B) update an exemption certificate; or
    - (C) update a data element of an exemption certificate.
  - (ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.
  - (iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).
- (4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

Amended by Chapter 285, 2011 General Session

**59-12-107 Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.**

(1) As used in this section:

- (a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.
- (b) "Related seller" means a seller that:
  - (i) meets one or more of the criteria described in Subsection (2)(a)(i); and
  - (ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:
    - (A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and
    - (B) to a purchaser in the state.
- (c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2)

- (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:
  - (i) has or utilizes:
    - (A) an office;
    - (B) a distribution house;
    - (C) a sales house;
    - (D) a warehouse;
    - (E) a service enterprise; or
    - (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);
  - (ii) maintains a stock of goods;
  - (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:
    - (A) advertising; or
    - (B) solicitation by:
      - (I) direct mail;
      - (II) electronic mail;
      - (III) the Internet;
      - (IV) telecommunications service; or
      - (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
  - (iv) regularly engages in the delivery of property in the state other than by:
    - (A) common carrier; or
    - (B) United States mail; or
  - (v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

- (b) A seller is considered to be engaged in the business of selling tangible personal property, a service, or a product transferred electronically for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:
  - (i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and
  - (ii)
    - (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or
    - (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.
- (c) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b):
  - (i) except as provided in Subsection (2)(c)(ii), may voluntarily:
    - (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
    - (B) remit the tax to the commission as provided in this part; or
  - (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- (d) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by Subsection (2) to:
  - (i) pay a tax, fee, or charge under:
    - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
    - (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
    - (C) Section 19-6-714;
    - (D) Section 19-6-805;
    - (E) Section 69-2-5;
    - (F) Section 69-2-5.5;
    - (G) Section 69-2-5.6; or
    - (H) this title; or
  - (ii) collect and remit a tax, fee, or charge under:
    - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
    - (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
    - (C) Section 19-6-714;
    - (D) Section 19-6-805;
    - (E) Section 69-2-5;
    - (F) Section 69-2-5.5;
    - (G) Section 69-2-5.6; or
    - (H) this title.
- (e) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:
  - (i) the seller did not collect a tax imposed by this chapter on the transaction; and
  - (ii) the person:
    - (A) stores the tangible personal property or product transferred electronically in the state;
    - (B) uses the tangible personal property or product transferred electronically in the state; or
    - (C) consumes the tangible personal property or product transferred electronically in the state.
- (f) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property

that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

- (3)
- (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be collected from a purchaser.
  - (b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.
  - (c)
    - (i) Each seller shall:
      - (A) give the purchaser a receipt for the tax collected; or
      - (B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.
    - (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.
  - (d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.
  - (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.
  - (f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.
  - (g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in the commission's opinion, better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.
  - (h)
    - (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:
      - (A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;
      - (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;
      - (C) the tax rate under this chapter applicable to the purchase; and
      - (D) the date of the purchase.
    - (ii)
      - (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

- (4)
- (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.
  - (b)
    - (i) Each seller shall, on or before the last day of the month next succeeding each calendar quarterly period, file with the commission a return for the preceding quarterly period.
    - (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.
  - (c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.
  - (d)
    - (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.
    - (ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.
  - (e)
    - (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.
    - (ii)
      - (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser who is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and who converts tangible personal property into real property.
      - (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.
      - (C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.
      - (D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in

the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f)

(i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h)

(i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5)

(a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(c); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b)

(i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(c) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(c) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c)

(i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

- (A) the information required to be contained in a return described in Subsection (5)(c)(i); and
- (B) the form described in Subsection (5)(c)(i)(D).
- (d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:
  - (i) a cash transaction; and
  - (ii) a charge transaction.
- (6)
  - (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:
    - (i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and
    - (ii) for the month for which the seller collects a tax under this chapter.
  - (b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).
- (7)
  - (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.
  - (b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.
- (8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the retailer is responsible for the collection or payment of the tax imposed on the sale if:
  - (a) the retailer represents that the personal property is purchased by the retailer for resale; and
  - (b) the personal property is not subsequently resold.
- (9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.
- (10)
  - (a) For purposes of this Subsection (10):
    - (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.
    - (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:
      - (A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:
        - (I) not a transaction described in Subsection 59-12-103(1); or
        - (II) exempt under Section 59-12-104;
      - (B) a financing charge;
      - (C) interest;
      - (D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

- (E) an uncollectible amount on tangible personal property or a product transferred electronically that:
    - (I) is subject to a tax under this chapter; and
    - (II) remains in the possession of a seller until the full purchase price is paid;
  - (F) an expense incurred in attempting to collect any debt; or
  - (G) an amount that a seller does not collect on repossessed property.
- (b)
- (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.
  - (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:
    - (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;
    - (B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and
    - (C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.
- (c) A seller may file a refund claim with the commission if:
- (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and
  - (ii) as provided in Section 59-1-1410.
- (d) A bad debt deduction under this section may not include interest.
- (e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:
- (i) is written off as uncollectible in the seller's books and records; and
  - (ii) would be eligible for a bad debt deduction:
    - (A) for federal income tax purposes; and
    - (B) if the seller were required to file a federal income tax return.
- (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:
- (i) on the portion of the bad debt the seller recovers; and
  - (ii) on a return filed for the time period for which the portion of the bad debt is recovered.
- (g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- (i) in a proportional amount:
    - (A) to the purchase price of the tangible personal property, product transferred electronically, or service; and
    - (B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and
  - (ii) to:
    - (A) interest charges;
    - (B) service charges; and
    - (C) other charges.

- (h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:
  - (i) in accordance with this Subsection (10); and
  - (ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.
- (i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.
- (11)
  - (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.
  - (b) A violation of this section is punishable as provided in Section 59-1-401.
  - (c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.
  - (d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Amended by Chapter 178, 2012 General Session

Amended by Chapter 312, 2012 General Session

Amended by Chapter 399, 2012 General Session

#### **59-12-107.1 Direct payment permit.**

- (1) The commission may issue a direct payment permit to a seller that:
  - (a) obtains a license under Section 59-12-106;
  - (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to the year in which the commission issues the direct payment permit to the seller;
  - (c) has a record of timely payment of taxes under this chapter as determined by the commission; and
  - (d) demonstrates to the commission that the seller has the ability to determine the appropriate location of a transaction:
    - (i) under:
      - (A) Section 59-12-211;
      - (B) Section 59-12-212; or
      - (C) Section 59-12-213; and
    - (ii) for each transaction for which the seller makes a purchase using the direct payment permit.
- (2) The commission shall within 120 days after the date a seller applies for a direct payment permit notify the seller of the commission's decision to issue or deny the issuance of the direct payment permit.
- (3) A direct payment permit may not be used in connection with the following transactions:
  - (a) a purchase of the following purchased in the same transaction:
    - (i) prepared food; and
    - (ii) food and food ingredients;
  - (b) amounts paid or charged for accommodations and services described in Subsection 59-12-103(1)(i);
  - (c) amounts paid or charged for admission or user fees under Subsection 59-12-103(1)(f);

- (d) a purchase of:
    - (i) a motor vehicle;
    - (ii) an aircraft;
    - (iii) a watercraft;
    - (iv) a modular home;
    - (v) a manufactured home; or
    - (vi) a mobile home;
  - (e) amounts paid under Subsection 59-12-103(1)(b); or
  - (f) sales under Subsection 59-12-103(1)(c).
- (4) The holder of a direct payment permit shall:
- (a) present evidence of the direct payment permit to a seller at the time the holder of the direct payment permit makes a purchase using the direct payment permit;
  - (b) determine the appropriate location of a transaction under:
    - (i)
      - (A) Section 59-12-211;
      - (B) Section 59-12-212; or
      - (C) Section 59-12-213; and
    - (ii) for each transaction for which the holder of the direct payment permit makes a purchase using the direct payment permit;
  - (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax due on each transaction for which the holder of the direct payment permit uses the direct payment permit;
  - (d) report and remit to the commission the sales and use tax described in Subsection (4)(c) at the same time and in the same manner as the holder of the direct payment permit reports and remits a tax under this chapter; and
  - (e) maintain records:
    - (i) that indicate the appropriate location of a transaction under:
      - (A)
        - (I) Section 59-12-211;
        - (II) Section 59-12-212; or
        - (III) Section 59-12-213; and
      - (B) for each transaction for which a purchase is made using the direct payment permit; and
    - (ii) necessary to determine the amount described in Subsection (4)(c) for each transaction for which the holder of the direct payment permit uses the direct payment permit.
- (5) A seller that is presented evidence of a direct payment permit at the time of a transaction:
- (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the transaction;
  - (b) shall, for a period of three years from the date the seller files a return with the commission reporting the transaction, retain records to verify that the transaction was made using a direct payment permit; and
  - (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the transaction.
- (6) The holder of a direct payment permit may calculate the amount the holder of the direct payment permit may retain under Section 59-12-108 on the amount described in Subsection (4)(c):
- (a) for each transaction for which the holder of the direct payment permit uses the direct payment permit; and
  - (b) that the holder of the direct payment permit remits to the commission under this section.
- (7) The commission may revoke a direct payment permit issued under this section at any time if the holder of the direct payment permit fails to comply with any provision of this chapter.

- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section.

Amended by Chapter 382, 2008 General Session

Amended by Chapter 384, 2008 General Session

**59-12-108 Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.**

- (1)
- (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:
    - (i) file a return with the commission:
      - (A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and
      - (B) for the month for which the seller collects a tax under this chapter; and
    - (ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)
      - (i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):
        - (A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or
        - (B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.
  - (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:
    - (i) is required by Section 59-12-107 to file the return electronically; or
    - (ii)
      - (A) is required to collect and remit a tax under Section 59-12-107; and
      - (B) files a simplified electronic return.
  - (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:
    - (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
    - (ii) a fee under Section 19-6-714;
    - (iii) a fee under Section 19-6-805;
    - (iv) a charge under Section 69-2-5;
    - (v) a charge under Section 69-2-5.5;
    - (vi) a charge under Section 69-2-5.6; or
    - (vii) a tax under this chapter.
  - (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.
  - (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).
- (2)
- (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

- (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:
  - (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):
    - (A) Subsection 59-12-103(2)(a);
    - (B) Subsection 59-12-103(2)(b); and
    - (C) Subsection 59-12-103(2)(d); and
  - (ii) for an agreement sales and use tax.
- (c)
  - (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).
  - (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:
    - (A) 1.31% of any amounts the seller is required to remit to the commission for:
      - (I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);
      - (II) the month for which the seller is filing a return in accordance with Subsection (1); and
      - (III) an agreement sales and use tax; and
    - (B) 1.31% of the difference between:
      - (I) the amounts the seller would have been required to remit to the commission:
        - (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
        - (Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and
        - (Cc) for an agreement sales and use tax; and
      - (II) the amounts the seller is required to remit to the commission for:
        - (Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);
        - (Bb) the month for which the seller is filing a return in accordance with Subsection (1); and
        - (Cc) an agreement sales and use tax.
- (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:
  - (i) for the month for which the seller is filing a return in accordance with Subsection (1); and
  - (ii) under:
    - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
    - (B) Subsection 59-12-603(1)(a)(i)(A); or
    - (C) Subsection 59-12-603(1)(a)(i)(B).
- (3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).
- (4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:
  - (a) voluntarily meet the requirements of Subsection (1); and
  - (b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).
- (5)

- (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to 18% of any amounts the seller would otherwise remit to the commission:
  - (i) if the seller obtains a license under Section 59-12-106 for the first time on or after January 1, 2014; and
  - (ii) for:
    - (A) an agreement sales and use tax; and
    - (B) the time period for which the seller files a return in accordance with this section.
- (b) If a seller retains an amount under this Subsection (5), the seller may not retain any other amount under this section.
- (c) If a seller retains an amount under this Subsection (5), the commission may require the seller to file a return by:
  - (i) electronic means; or
  - (ii) a means other than electronic means.
- (d) A seller may not retain an amount under this Subsection (5) if the seller is required to collect or remit a tax under this section in accordance with Section 59-12-103.1.
- (6) Penalties for late payment shall be as provided in Section 59-1-401.
- (7)
  - (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:
    - (i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
    - (ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).
  - (b) The commission shall each month allocate the amount calculated under Subsection (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.
  - (c) The amount the commission calculates under Subsection (7)(a) may not include an amount collected from a tax that:
    - (i) the state imposes within a county, city, or town, including the unincorporated area of a county; and
    - (ii) is not imposed within the entire state.

Amended by Chapter 50, 2013 General Session

#### **59-12-109 Confidentiality of information.**

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 5, 1987 General Session

#### **59-12-110 Refunds procedures.**

- (1) A seller that files a claim for a refund under Section 59-12-107 for bad debt shall file the claim with the commission within three years from the date on which the seller could first claim the refund for the bad debt.

- (2) A seller that files a claim for a refund for a repossessed item shall file the claim with the commission within three years from the date the item is repossessed.
- (3) Except as provided in Subsection (1) or (2), procedures and requirements for a taxpayer to obtain a refund from the commission are as provided in Section 59-1-1410.

Amended by Chapter 424, 2012 General Session

**59-12-110.1 Refund or credit for taxes overpaid by a purchaser -- Seller reasonable business practice.**

- (1) Subject to the other provisions of this section, a purchaser may request from a seller a refund or credit of any amount that:
  - (a) the purchaser overpaid in taxes under this chapter; and
  - (b) was collected by the seller.
- (2)
  - (a) Except as provided in Subsection (2)(b), the procedure described in Subsection (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the commission under Section 59-1-1410.
  - (b) Notwithstanding Subsection (2)(a):
    - (i) the commission is not required to make a refund or credit of an amount for which as of the date the refund or credit is to be given the purchaser has requested or received a refund or credit from the seller; and
    - (ii) a seller is not required to refund or credit an amount for which as of the date the refund is to be given the purchaser has requested or received a refund or credit from the commission.
- (3) A purchaser may not bring a cause of action against a seller for a refund or credit described in Subsection (1):
  - (a) unless the purchaser provided the seller written notice that:
    - (i) the purchaser requests the refund or credit described in Subsection (1); and
    - (ii) contains the information necessary for the seller to determine the validity of the request; and
  - (b) sooner than 60 days after the day on which the seller receives the written notice described in Subsection (3)(a).
- (4) A seller that collects a tax under this chapter that exceeds the amount the seller is required to collect under this chapter is presumed to have a reasonable business practice if the seller:
  - (a) collects the tax under this chapter that exceeds the amount the seller is required to collect under this chapter through the use of:
    - (i) a certified service provider; or
    - (ii) a system certified by the state, including a proprietary system certified by the state; and
  - (b) remits to the commission all taxes the seller is required to remit to the commission under this chapter.

Amended by Chapter 212, 2009 General Session

**59-12-111 Penalty for certain purchasers that fail to file a return or pay a tax due -- Commission rulemaking authority.**

A person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, and all other penalties and interest as provided by this title if the person:

- (1) does not hold:
  - (a) a license under Section 59-12-106; or

- (b) a valid use tax registration certificate;
- (2) purchases tangible personal property subject to taxation under Subsection 59-12-103(1) for storage, use, or other consumption in this state; and
- (3) fails to file a return or pay the tax due as prescribed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 212, 2009 General Session

**59-12-112 Tax a lien when selling business -- Liability of purchaser.**

The tax imposed by this chapter shall be a lien upon the property of any person who sells out his business or stock of goods or quits business. Such person shall complete the return provided for under Section 59-12-107, within 30 days after the date he sold his business or stock of goods, or quit business. Such person's successor in business shall withhold enough of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold such purchase money and the taxes are due and unpaid after the 30-day period allowed, he is personally liable for the payment of the taxes collected and unpaid by the former owner.

Renumbered and Amended by Chapter 5, 1987 General Session

**59-12-116 License and tax in addition to other licenses and taxes.**

The license and tax imposed by this chapter shall be in addition to all other licenses and taxes provided by law.

Renumbered and Amended by Chapter 5, 1987 General Session

**59-12-117 Refusal to make or falsifying returns -- Evasion of payment of a tax -- Aiding or abetting an attempt to evade the payment of a tax -- Penalties -- Criminal violations.**

- (1) It is unlawful for any seller to:
  - (a) refuse to make any return required to be made under this chapter;
  - (b) make any false or fraudulent return or false statement on any return;
  - (c) evade the payment of a tax, or any part of a tax imposed by this chapter; or
  - (d) aid or abet another in any attempt to evade the payment of the tax or any part imposed by this chapter.
- (2) Any person violating any of the provisions of this chapter, except as provided in Section 59-12-107, is guilty of a criminal violation as provided in Section 59-1-401.
- (3) In addition to the penalties described in Subsection (2), any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement is guilty of the offense of perjury and on conviction of perjury shall be punished in the manner provided by law.
- (4) Any company making a false return or a return containing a false statement is guilty of a criminal violation as provided in Section 59-1-401.
- (5) Any person failing or refusing to furnish any return required to be made, failing or refusing to furnish a supplemental return or other data required by the commission, or rendering a false or fraudulent return is guilty of a criminal violation as provided in Section 59-1-401 for each offense.

- (6) Any person required to make, render, sign, or verify any report under this chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment or determination of amount due required by law to be made is guilty of a criminal violation as provided in Section 59-1-401 for each offense.
- (7) Any violation of the provisions of this chapter, except as otherwise provided, shall be a criminal violation as provided in Section 59-1-401.

Amended by Chapter 158, 2005 General Session

**59-12-118 Commission's authority to administer sales and use tax.**

Except as provided in Section 59-12-209, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

- (1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;
- (2) representing each county, city, and town's interest in any administrative proceeding involving the state or local option sales and use tax;
- (3) adjudicating any administrative proceedings involving the state or local option sales and use tax;
- (4) waiving, reducing, or compromising any penalty and interest imposed in connection with any determination of state or local option sales or use tax; and
- (5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

Amended by Chapter 259, 1994 General Session

**59-12-120 Investment incentive to ski resorts for lease or purchase of certain equipment -- Ski Resort Capital Investment Restricted Account created -- Conditions and restrictions on receiving incentive -- State Tax Commission to administer.**

- (1) Any person operating a ski resort in the state of Utah shall be entitled to an investment incentive in an amount not to exceed the costs incurred in the purchase or lease of:
  - (a) snow making equipment;
  - (b) ski slope grooming equipment; and
  - (c) passenger ropeways as defined in Section 72-11-102.
- (2) The investment incentive allowed in Subsection (1) shall be paid from the Ski Resort Capital Investment Restricted Account created in Subsection (5). The investment incentive shall be allowed only to the extent that for each dollar of investment incentive allowed, three dollars shall be expended for the purchase or lease of property described in Subsection (1) by a person operating a ski resort. The investment incentive paid out of the account shall be allocated among ski resorts based on the relation between the total sales tax collected from the sale of ski lift tickets in Utah to the total sales tax collected from the sale of ski lift tickets in Utah by each ski resort.
- (3) The investment incentive is available to any person operating a ski resort in the state of Utah making purchases or leases of property described in Subsection (1) on or after January 1, 1989 and on or before December 31, 1992. All claims made under this section against the amount in the Ski Resort Capital Investment Restricted Account shall be made on or before June 30, 1993.
- (4) If a ski resort is sold or leased to an unrelated third party within four years after the reporting period in which the investment incentive allowed in Subsection (1) is taken, the person who received the investment incentive shall reimburse to the Ski Resort Capital Investment

Restricted Account an amount equal to all investment incentives received during the period described in Subsection (3). For purposes of this Subsection (4), if a ski resort is sold in connection with a bankruptcy proceeding, the sale shall be considered the kind of sale requiring the reimbursement of the investment incentive.

- (5) There is created the Ski Resort Capital Investment Incentive Restricted Account within the General Fund.
- (6) The State Tax Commission shall administer this section by rule.

Amended by Chapter 303, 2011 General Session

**59-12-123 Definitions -- Collection, remittance, and payment of a tax on direct mail.**

- (1) As used in this section:
  - (a) "Advertising and promotional direct mail" means printed material:
    - (i) that meets the definition of direct mail under Section 59-12-102; and
    - (ii) if the primary purpose of the printed material is to:
      - (A) attract public attention to a business, organization, person, or product; or
      - (B) attempt to popularize, secure, or sell financial support for a business, organization, person, or product.
  - (b) For purposes of Subsection (1)(a), "product" means:
    - (i) tangible personal property;
    - (ii) a product transferred electronically; or
    - (iii) a service.
- (2) Notwithstanding Section 59-12-107 and except as provided in Subsection (7), a purchaser of advertising and promotional direct mail may provide to a seller at the time of a transaction:
  - (a) a form:
    - (i) prescribed by the commission; and
    - (ii) indicating that the transaction is a direct mail transaction;
  - (b) an agreement certificate of exemption indicating that the transaction is a direct mail transaction;
  - (c) a direct payment permit under Section 59-12-107.1; or
  - (d) information that indicates the locations of the recipients to which the advertising and promotional direct mail is delivered.
- (3) If a seller receives a form, certificate, or permit described in Subsection (2)(a), (b), or (c) from a purchaser:
  - (a) if the seller acts in the absence of bad faith, the seller:
    - (i) is not liable to collect or remit agreement sales and use tax for that transaction; and
    - (ii) shall keep a record of the form, certificate, or permit described in Subsection (2)(a), (b), or (c) for three years after the date the seller files a return with the commission reporting that transaction; and
  - (b) the purchaser that provides the form, certificate, or permit described in Subsection (2)(a), (b), or (c) shall:
    - (i) determine the amount of agreement sales and use tax due on the transaction in the location where the advertising and promotional direct mail is delivered; and
    - (ii) report and remit to the commission the amount described in Subsection (3)(b)(i) in accordance with Section 59-12-107.
- (4) A form or certificate described in Subsection (2)(a) or (b) is in effect for all transactions between the seller described in Subsection (3) and the purchaser described in Subsection (3):

- (a) beginning on the date the seller receives the form or certificate in accordance with Subsection (2)(a) or (b); and
  - (b) ending on the date the purchaser revokes the form or certificate in writing.
- (5)
- (a) If a seller receives the information described in Subsection (2)(d) from a purchaser that indicates the locations of the recipients to which the advertising and promotional direct mail is delivered, the seller shall collect and remit agreement sales and use tax to the commission in accordance with the information the purchaser provides.
  - (b) If a seller collects and remits agreement sales and use tax to the commission in accordance with Subsection (5)(a), the seller is not liable for any further obligation to collect or remit agreement sales and use tax to the commission on the transaction unless the seller acts in bad faith.
- (6) If a purchaser of advertising and promotional direct mail described in Subsection (2) does not provide the seller with the form, certificate, permit, or information described in Subsection (2) at the time of the transaction, the seller shall:
- (a) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection 59-12-211(6); and
  - (b) collect and remit to the commission the amount described in Subsection (6)(a) in accordance with Section 59-12-107.
- (7)
- (a) Except as provided in Subsection (7)(b), this Subsection (7) applies to direct mail if the direct mail is delivered or distributed:
    - (i) from a location within the state; and
    - (ii) to a location within the state.
  - (b) A purchaser of direct mail may provide a seller with:
    - (i) a form:
      - (A) prescribed by the commission; and
      - (B) indicating that the transaction is a direct mail transaction;
    - (ii) an agreement certificate of exemption indicating that the transaction is a direct mail transaction; or
    - (iii) a direct payment permit under Section 59-12-107.1.
  - (c) If a seller receives a form, certificate, or permit described in Subsection (7)(b) from a purchaser:
    - (i) if the seller acts in the absence of bad faith, the seller:
      - (A) is not liable to collect or remit agreement sales and use tax for that transaction; and
      - (B) shall keep a record of the form, certificate, or permit described in Subsection (7)(b) for three years after the date the seller files a return with the commission reporting the transaction; and
    - (ii) the purchaser that provides the form, certificate, or permit described in Subsection (7)(b) shall:
      - (A) determine the amount of agreement sales and use tax due on the transaction in accordance with Section 59-12-211.1; and
      - (B) report and remit to the commission the amount described in Subsection (7)(c)(ii)(A) in accordance with Section 59-12-107.
  - (d) Except as provided in Subsection (7)(f), if a purchaser of direct mail described in Subsection (7)(b) does not provide the seller with the form, certificate, or permit described in Subsection (7)(b) at the time of the transaction, the seller shall:

- (i) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection 59-12-211(6);
  - (ii) collect and remit to the commission the amount described in Subsection (7)(d)(i) in accordance with Section 59-12-107; and
  - (iii) is not liable for any additional sales and use tax under this chapter.
- (e) If a seller knows that direct mail will be delivered or distributed to a location in another state, the seller shall:
  - (i) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection (5); and
  - (ii) collect and remit to the commission the amount described in Subsection (7)(e)(i) in accordance with Section 59-12-107.
- (f) A seller may:
  - (i) elect to determine the amount of agreement sales and use tax due on the sale of advertising and promotional direct mail in accordance with Subsection (5) or (6); and
  - (ii) collect and remit to the commission the amount described in Subsection (7)(f)(i) in accordance with Section 59-12-107.
- (8) A form, certificate, or permit described in Subsection (7)(b) is in effect for all transactions between a seller and a purchaser:
  - (a) beginning on the date the seller receives the form, certificate, or permit in accordance with Subsection (7)(b); and
  - (b) ending on the date the purchaser revokes the form, certificate, or permit in writing.
- (9) This section applies to:
  - (a) a transaction that is a sale of a service only if the service is an integral part of the production and distribution of direct mail; or
  - (b) a bundled transaction that includes advertising and promotional direct mail only if the primary purpose of the transaction is the sale of tangible personal property, a product transferred electronically, or a service that is advertising and promotional direct mail.
- (10) This section does not apply to a transaction that includes:
  - (a) the development of billing information; or
  - (b) the provision of any data processing service that is more than incidental regardless of whether advertising and promotional direct mail is included in the same mailing.

Amended by Chapter 142, 2010 General Session

**59-12-124 Certified service provider liability.**

- (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a model 1 seller selects a certified service provider as the model 1 seller's agent:
  - (a) the certified service provider shall collect and remit an agreement sales and use tax to the commission:
    - (i) that the model 1 seller would otherwise be required to remit to the commission under this chapter; and
    - (ii) as provided in this chapter; and
  - (b) the model 1 seller is not liable for the certified service provider's failure to collect and remit an agreement sales and use tax to the commission that the model 1 seller would otherwise be required to remit to the commission under this chapter.
- (2) The model 1 seller described in Subsection (1):
  - (a) shall remit to the commission a sales and use tax imposed by this chapter:
    - (i) on the model 1 seller's purchases; and

- (ii) as provided in this chapter; and
- (b) is liable for a sales and use tax liability arising from fraud by the model 1 seller.

Enacted by Chapter 384, 2008 General Session

**59-12-125 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-126 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-127 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

- (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary;
    - (C) on a taxing jurisdiction; or
    - (D) in the taxability matrix the commission provides in accordance with the agreement; or
  - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary;
    - (C) on a taxing jurisdiction; or
    - (D) in the taxability matrix the commission provides in accordance with the agreement.
- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
  - (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
    - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
      - (i) incorrect data provided by the commission:
        - (A) on a tax rate;
        - (B) on a boundary; or
        - (C) on a taxing jurisdiction; or
      - (ii) an erroneous classification by the commission:
        - (A) in the taxability matrix the commission provides in accordance with the agreement; and
        - (B) with respect to a term:
          - (I) in the library of definitions; and
          - (II) that is:
            - (Aa) listed as taxable or exempt;
            - (Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

**59-12-128 Amnesty.**

- (1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:
  - (a) a tax, fee, or charge under:
    - (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
    - (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
    - (iii) Section 19-6-714;
    - (iv) Section 19-6-805;
    - (v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;
    - (vi) Section 69-2-5;
    - (vii) Section 69-2-5.5;
    - (viii) Section 69-2-5.6; or
    - (ix) this chapter;
  - (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
  - (c) interest on a tax, fee, or charge described in Subsection (1)(a).
- (2)
  - (a) Except as provided in Subsections (2)(b) and (3) and subject to Subsections (4) and (5), the commission shall grant a seller amnesty if the seller:
    - (i) obtains a license under Section 59-12-106; and
    - (ii) is registered under the agreement.
  - (b) The commission is not required to grant a seller amnesty under this section beginning 12 months after the date the state becomes a full member under the agreement.
- (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
  - (a) the seller collects;
  - (b) the seller remits to the commission;
  - (c) that the seller is required to remit to the commission on the seller's purchase; or
  - (d) arising from a transaction that occurs within a time period that is under audit by the commission if:
    - (i) the seller receives notice of the commencement of the audit prior to obtaining a license under Section 59-12-106; and
    - (ii)
      - (A) the audit described in Subsection (3)(d)(i) is not complete; or
      - (B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).
- (4)
  - (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a seller under this section:
    - (i) applies to the time period during which the seller is not licensed under Section 59-12-106; and
    - (ii) remains in effect if, for a period of three years, the seller:
      - (A) remains registered under the agreement;
      - (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

- (C) remits to the commission the taxes, fees, and charges the seller collects in accordance with Subsection (4)(a)(ii)(B).
- (b) The commission may not grant a seller amnesty under this section if, with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:
  - (i) fraud; or
  - (ii) an intentional misrepresentation of a material fact.
- (5)
  - (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.
  - (b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an amount in accordance with Subsection (5)(a), the time period for the commission to make an assessment under Section 59-1-1410 is extended for a time period beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

Amended by Chapter 285, 2011 General Session

Amended by Chapter 309, 2011 General Session

**59-12-129 Monetary allowance under the agreement.**

The commission shall provide a monetary allowance to a seller or certified service provider as determined:

- (1) by the governing board of the agreement; and
- (2) in accordance with the agreement.

Enacted by Chapter 384, 2008 General Session

## **Part 2**

### **Local Sales and Use Tax Act**

**59-12-201 Title.**

This part is known as the "Local Sales and Use Tax Act."

Amended by Chapter 21, 1999 General Session

**59-12-202 Purpose and intent.**

- (1) It is the purpose of this part to provide the counties, cities, and towns of the state with an added source of revenue and to thereby assist them to meet their growing financial needs. It is the legislative intent that this added revenue be used to the greatest possible extent by the counties, cities, and towns to finance their capital outlay requirements and to service their bonded indebtedness.
- (2) It is the purpose of this part to provide an orderly and efficient system of administering, operating, and enforcing the state and local option sales and use tax. The Legislature finds that intervention by counties, cities, and towns into the administration, operation, and enforcement of the local sales and use tax, particularly in the hearing and appeal process,

increases the cost of administering both the local option sales and use tax and the state sales and use tax proceedings, and substantially delays the receipt of revenues for counties, cities, towns, and the state. The Legislature finds that the interests and concerns of counties, cities, and towns can be adequately protected through the commission's enforcement efforts. It is therefore the Legislature's intent to grant the commission exclusive authority to administer, operate, and enforce the local option sales and use tax, without interference from counties, cities, and towns and to allow intervention by any county, city, or town only in the limited circumstances where a particular hearing or appeal may result in a significant lessening of the revenues of any single county, city, or town.

Amended by Chapter 259, 1994 General Session

**59-12-203 County, city, town, or metro township may levy tax -- Contracts pursuant to Interlocal Cooperation Act.**

- (1) A county, city, town, or metro township may impose a sales and use tax under this part.
- (2) If a metro township imposes a tax under this part, the metro township is subject to the same requirements a city is required to meet under this part.
- (3)
  - (a) Except as provided in Subsection (3)(b) and notwithstanding any other provision of this part, if a metro township imposes a tax under this part, the State Tax Commission shall distribute the revenues collected from the tax to the metro township.
  - (b) The State Tax Commission shall transfer the revenues collected within a metro township under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:
    - (i) provides written notice to the State Tax Commission requesting the transfer; and
    - (ii) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.
- (4) A county, city, town, or metro township that imposes a sales and use tax under this part may:
  - (a) enter into agreements authorized by Title 11, Chapter 13, Interlocal Cooperation Act; and
  - (b) use any or all of the revenue collected from the tax for the mutual benefit of local governments that elect to contract with one another pursuant to Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 352, 2015 General Session

**59-12-204 Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.**

- (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).
- (2)
  - (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns located in the county:
    - (i) at the rate of 1% of the purchase price paid or charged; and
    - (ii) if the location of the transaction is within the county as determined under Sections 59-12-211 through 59-12-215.

- (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.
- (3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.
- (4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.
- (5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.
- (6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:
  - (a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);
  - (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;
  - (c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;
  - (d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;
  - (e) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and
  - (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.
- (7)
  - (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (7).
  - (b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for

that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.

- (c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:
  - (i) the percentage the commission determines for the month under Subsection (7)(b) for the city, town, or unincorporated area of a county; and
  - (ii) \$25,417.
- (d) The commission shall deposit an amount the commission retains in accordance with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.
- (e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

Amended by Chapter 258, 2014 General Session

**59-12-205 Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.**

- (1) A county, city, or town, in order to maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.
- (2) Except as provided in Subsections (3) through (6) and subject to Subsection (7):
  - (a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and
  - (b)
    - (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and
    - (ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.
- (3)
  - (a) Beginning on July 1, 2011, and ending on June 30, 2016, the commission shall each year distribute to a county, city, or town the distribution required by this Subsection (3) if:
    - (i) the county, city, or town is a:
      - (A) county of the third, fourth, fifth, or sixth class;
      - (B) city of the fifth class; or
      - (C) town;
    - (ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;
  - (iii)

- (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or
  - (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (iv)
- (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or
  - (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.
- (b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):
- (i) from the distribution required by Subsection (2)(a); and
  - (ii) before making any other distribution required by this section.
- (c)
- (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.
  - (ii) For purposes of Subsection (3)(c)(i):
    - (A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and
    - (B) the denominator of the fraction is \$333,583.
- (d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.
- (4)
- (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.
  - (b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.
- (5)
- (a) As used in this Subsection (5):
    - (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax revenue distributions in accordance with Subsection (4) for each of the following fiscal years:

- (A) fiscal year 2002-03;
- (B) fiscal year 2003-04; and
- (C) fiscal year 2004-05.
- (ii) "Minimum tax revenue distribution" means the greater of:
  - (A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or
  - (B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.
- (b)
  - (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:
    - (A) the payment required by Subsection (2); or
    - (B) the minimum tax revenue distribution.
  - (ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).
- (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:
  - (i) the minimum tax revenue distribution; and
  - (ii) .90.
- (6)
  - (a) As used in this Subsection (6):
    - (i) "Eligible county, city, or town" means a county, city, or town that:
      - (A) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2002-03;
      - (B) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2003-04;
      - (C) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2004-05;
      - (D) for a fiscal year beginning with fiscal year 2012-13 and ending with fiscal year 2015-16, does not receive a tax revenue distribution described in Subsection (5) equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years; and
      - (E) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.
    - (ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.
  - (b) Beginning with fiscal year 2016-17 and ending with fiscal year 2020-21, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:
    - (i) the payment required by Subsection (2); or
    - (ii) the minimum tax revenue distribution.
- (7)

- (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.
- (b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.
- (c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Amended by Chapter 364, 2016 General Session

**59-12-206 Collection of taxes by commission -- Administrative charge.**

- (1) The commission shall transmit the sales and use tax revenues the commission collects in accordance with a contract with any county, city, or town monthly by electronic funds transfer.
- (2) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

**59-12-208.1 Enactment or repeal of tax -- Effective date -- Notice requirements.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to:
    - (i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or
    - (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a county, city, or town.
- (2)
  - (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:
    - (i) that the county, city, or town will enact or repeal a tax under this part;
    - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
    - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
    - (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.
  - (c)
    - (i) The enactment of a tax takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.
    - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:

- (A) on the first day of a calendar quarter; and
  - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (3)
- (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) the rate of the tax described in Subsection (3)(b)(i).
  - (c)
    - (i) The enactment of a tax takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.
    - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:
      - (A) on the first day of a calendar quarter; and
      - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).
    - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

**59-12-209 Participation of counties, cities, and towns in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.**

- (1) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a county, city, or town does not have the right to any of the following, except as specifically allowed by Subsection (2) and Section 59-12-210:
- (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

- (b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.
- (2)
  - (a) Counties, cities, and towns shall have access to records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection (2).
  - (b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each qualified county, city, and town.
  - (c) For purposes of this Subsection (2), a county, city, or town is a qualified county, city, or town if a proposed final agency action reduces a tax under this chapter distributable to that county, city, or town by more than \$10,000 below the amount of the tax that would have been distributable to that county, city, or town had a notice of deficiency, as described in Section 59-1-1405, not been reduced.
  - (d) A qualified county, city, or town may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section 59-1-403.
  - (e) No later than 10 days after receiving the notice of the commission's proposed final agency action, a qualified county, city, or town may file a notice of intervention with the commission.
  - (f) No later than 20 days after filing a notice of intervention, if a qualified county, city, or town objects to the proposed final agency action, that qualified county, city, or town may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.
  - (g) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.
  - (h)
    - (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.
    - (ii) A taxpayer and any qualified county, city, or town that has filed a petition for reconsideration may appeal the final agency action.
  - (i)
    - (i) Notwithstanding Subsections (2)(a) through (h) and subject to Subsection (2)(i)(ii), the following may file a petition for reconsideration with the commission:
      - (A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or
      - (B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).
    - (ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection (2)(i)(i) shall file the petition no later than 20 days after the later of:
      - (A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection (2)(i)(i) from the commission; or
      - (B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection (2)(i)(i).

Amended by Chapter 212, 2009 General Session  
Amended by Chapter 240, 2009 General Session

**59-12-210 Commission to provide data to counties.**

- (1)
- (a) The commission shall provide to each county the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each county, city, and town in accordance with Sections 59-12-211 through 59-12-215.
  - (b) The data described in Subsection (1)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.
- (2)
- (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a county, city, or town with copies of returns and other information required by this chapter relating to a tax under this chapter.
  - (b) The information described in Subsection (2)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.
  - (c) The request described in Subsection (2)(b) shall specifically indicate the information being sought and how the information will be used.
  - (d) Information received pursuant to the request described in Subsection (2)(b) shall be:
    - (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and
    - (ii) subject to the confidentiality provisions of Section 59-1-403.

Amended by Chapter 240, 2009 General Session

**59-12-210.1 Commission redistribution of certain sales and use tax revenues.**

- (1) As used in this section:
- (a) "Eligible portion of qualifying sales and use tax revenues" means the portion of qualifying sales and use tax revenues that:
    - (i) were part of an original distribution; and
    - (ii) the commission determines should have been transmitted:
      - (A) to a secondary recipient political subdivision; and
      - (B) during the redistribution period.
  - (b) "Original distribution" means that the commission:
    - (i) collects an amount of qualifying sales and use tax revenues; and
    - (ii) transmits the amount of qualifying sales and use tax revenues to an original recipient political subdivision.
  - (c) "Original recipient political subdivision" means a county, city, or town to which the commission makes an original distribution.
  - (d) "Qualifying sales and use tax revenues" means revenues the commission collects from a tax under this chapter except for a tax imposed under:
    - (i) Part 1, Tax Collection;
    - (ii) Part 3, Transient Room Tax, if a county, city, or town:
      - (A) collects the tax; and
      - (B) does not contract with the commission to collect the tax;
    - (iii) Part 12, Motor Vehicle Rental Tax; or
    - (iv) Part 18, Additional State Sales and Use Tax Act.
  - (e) "Redistribution" means that the commission:

- (i) makes an original distribution of qualifying sales and use tax revenues to an original recipient political subdivision;
- (ii) after the commission makes the original distribution of qualifying sales and use tax revenues to the original recipient political subdivision, determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision as a result of:
  - (A) a county, city, or town providing written notice to the commission that qualifying sales and use tax revenues that the commission distributed to an original recipient political subdivision should have been transmitted to a secondary recipient political subdivision; or
  - (B) the commission finding that an extraordinary circumstance, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists that requires the commission to make a redistribution without receiving the notice described in Subsection (1)(e)(ii)(A); and
- (iii) in accordance with this section, transmits to the secondary recipient political subdivision the eligible portion of qualifying sales and use tax revenues for the redistribution period.
- (f) "Redistribution determination date" means the date the commission determines that a secondary recipient political subdivision should have received a redistribution, regardless of the date the commission actually transmits the redistribution to the secondary recipient political subdivision.
- (g) "Redistribution period" means the time period:
  - (i) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is 90 or more days before the redistribution determination date:
    - (A) beginning 90 days before the redistribution determination date; and
    - (B) ending on the redistribution determination date; or
  - (ii) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is less than 90 days before the redistribution determination date:
    - (A) beginning on the date the eligible portion of qualifying sales and use tax revenues should have been transmitted to the secondary recipient political subdivision; and
    - (B) ending on the redistribution determination date.
- (h) "Secondary recipient political subdivision" means a county, city, or town that the commission determines should receive a redistribution.
- (2) Subject to Subsection (3), the commission may make a redistribution to a secondary recipient political subdivision in an amount equal to the eligible portion of qualifying sales and use tax revenues if:
  - (a) the commission provides written notice to the following within 15 days after the commission determines to make the redistribution:
    - (i) the original recipient political subdivision; and
    - (ii) the secondary recipient political subdivision; and
  - (b) the commission obtains:
    - (i) an amended return from each seller that reports a transaction that will be subject to the redistribution; or
    - (ii) if the commission determines that an amended return described in Subsection (2)(b)(i) is not required to make the redistribution, information:
      - (A) supporting the redistribution; and
      - (B) supplied by:
        - (I) a seller;

- (II) a county, city, or town; or
- (III) the commission.
- (3) The commission shall make a redistribution within 60 days after the requirements of Subsection (2) are met.
- (4) This section does not limit the commission's authority to make a distribution of revenues under this chapter for a time period other than the redistribution period.

Enacted by Chapter 240, 2009 General Session

**59-12-211 Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.**

(1) As used in this section:

(a)

(i) "Receipt" and "receive" mean:

- (A) taking possession of tangible personal property;
- (B) making first use of a service; or
- (C) for a product transferred electronically, the earlier of:
  - (I) taking possession of the product transferred electronically; or
  - (II) making first use of the product transferred electronically.

(ii) "Receipt" and "receive" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or rail car that is used to carry a person or property in interstate commerce;

(ii) a truck or truck-tractor:

- (A) with a gross vehicle weight rating of 10,001 pounds or more;
- (B) registered under Section 41-1a-301; and
- (C) operated under the authority of a carrier authorized and certificated:
  - (I) by the United States Department of Transportation or another federal authority; and
  - (II) to engage in carrying a person or property in interstate commerce;

(iii) a trailer, semitrailer, or passenger bus that is:

- (A) registered under Section 41-1a-301; and
- (B) operated under the authority of a carrier authorized and certificated:
  - (I) by the United States Department of Transportation or another federal authority; and
  - (II) to engage in carrying a person or property in interstate commerce;

(iv) an aircraft that is operated by an air carrier authorized and certificated:

- (A) by the United States Department of Transportation or another federal or foreign authority; and

(B) to engage in carrying a person or property in interstate commerce; or

(v) a container designed for use on, or a component part attached or secured on, an item of equipment listed in Subsections (1)(b)(i) through (iv).

(2) Except as provided in Subsections (8) and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.

(3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller,

the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or service.

(4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:

- (a) the address or other information is available from the seller's business records; and
- (b) use of the address or other information from the seller's records does not constitute bad faith.

(5)

(a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:

- (i) the address is obtained during the consummation of the transaction; and
- (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

(b) An address used under Subsection (5)(a) includes the address of a purchaser's payment instrument if no other address is available.

(6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location:

(a) indicated by the address from which:

- (i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is subject to taxation under this chapter, the tangible personal property is shipped;
- (ii) for computer software delivered electronically or for a product transferred electronically that is subject to taxation under this chapter, the computer software or product transferred electronically is first available for transmission by the seller; or
- (iii) for a service that is subject to taxation under this chapter, the service is provided; or

(b) as determined by the seller with respect to a prepaid wireless calling service:

- (i) provided in Subsection (6)(a)(iii); or
- (ii) associated with the mobile telephone number.

(7)

(a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP Code that is located within two or more local taxing jurisdictions.

(b) If the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:

- (i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or
- (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:
  - (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and
  - (B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales and use tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

- (i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or
  - (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).
- (8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or service by the purchaser occurs.
- (9) The location of a purchase of direct mail is the location determined in accordance with Section 59-12-123.
- (10)
  - (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within which:
    - (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located; or
    - (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located if:
      - (A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), or (9); or
      - (B) after exercising due diligence, a seller or certified service provider is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), or (9).
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller or certified service provider is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).
- (11)
  - (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:
    - (i) by:
      - (A) telegraph;
      - (B) telephone; or
      - (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and
    - (ii) for delivery to another place:
      - (A) in this state; or
      - (B) outside this state.
  - (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and ending on December 31, 2009, the location of a florist delivery transaction is the business location of the florist that commences the florist delivery transaction.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:
    - (i) define:
      - (A) "business location"; and
      - (B) "florist";
    - (ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and
    - (iii) provide procedures for determining when a transaction is commenced.
- (12)

- (a) Notwithstanding any other provision of this section and except as provided in Subsection (12)(b), if a purchaser uses computer software and there is not a transfer of a copy of that software to the purchaser, the location of the transaction is determined in accordance with Subsections (4) and (5).
  - (b) If a purchaser uses computer software described in Subsection (12)(a) at more than one location, the location of the transaction shall be determined in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (13)
- (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurs during the return filing period.
  - (b) The form described in Subsection (13)(a) shall be filed with the commission as required under this chapter.
- (14) This section does not apply to:
- (a) amounts charged by a seller for:
    - (i) telecommunications service except for a prepaid calling service or a prepaid wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or
    - (ii) the retail sale or transfer of:
      - (A) a motor vehicle other than a motor vehicle that is transportation equipment;
      - (B) an aircraft other than an aircraft that is transportation equipment;
      - (C) a watercraft;
      - (D) a modular home;
      - (E) a manufactured home; or
      - (F) a mobile home; or
    - (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment;
  - (b) a tax a person pays in accordance with Subsection 59-12-107(2)(e); or
  - (c) a retail sale of tangible personal property or a product transferred electronically if:
    - (i) the seller receives the order for the tangible personal property or product transferred electronically in this state;
    - (ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;
    - (iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and
    - (iv) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Amended by Chapter 312, 2012 General Session

**59-12-211.1 Location of a transaction that is subject to a use tax.**

- (1) Subject to Subsection (2), a person that is required by Subsection 59-12-107(2)(e) to pay a use tax on a transaction shall report the location of that transaction at the person's location.
- (2) For purposes of Subsection (1), if a person has more than one location in this state, the person shall report the location of the transaction at the location at which tangible personal property, a product transferred electronically, or a service is received.

Amended by Chapter 312, 2012 General Session

**59-12-212 Location of certain transactions if receipt of order and receipt of tangible personal property or product take place in this state -- Location of sale, lease, or rental of a service -- Exception from tax, penalty, or interest.**

- (1) The location of the sale of tangible personal property or a product transferred electronically is the location where the seller receives the order if:
  - (a) the seller receives the order for the tangible personal property or product transferred electronically in this state;
  - (b) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;
  - (c) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (6); and
  - (d) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.
- (2)
  - (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the location where a seller receives an order is:
    - (i) a physical location of the seller or a third party; and
    - (ii) where an order is initially received by or on behalf of the seller.
  - (b) A physical location of a seller or third party includes the following if operated by or on behalf of the seller:
    - (i) an automated order receipt system;
    - (ii) an office; or
    - (iii) an outlet.
  - (c) The location where a seller receives an order does not include the location:
    - (i) where an order is accepted, completed, or fulfilled; or
    - (ii) from which tangible personal property or a product transferred electronically is shipped.
  - (d) For purposes of this Subsection (2), an order is considered to be received when all of the information necessary to the determination of whether the order can be accepted has been received by or on behalf of the seller.
- (3)
  - (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the amount is calculated at the total tax rate applicable to the location where:
    - (i) receipt by the purchaser occurs; or
    - (ii) the seller receives the order.
  - (b) A purchaser may rely on a written representation by the seller as to the location where the seller receives the order for the sale.
  - (c) If a purchaser does not have a written representation by the seller as to the location where the seller receives the order for the sale, the purchaser may determine the total tax rate applicable to the location where the order is received by using a location indicated by a business address for the seller that is available from the business records:
    - (i) of the purchaser; and
    - (ii) that are maintained in the ordinary course of the purchaser's business.

- (4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:
  - (a) sold under a single contract;
  - (b) sold in the same transaction; and
  - (c) billed on the same billing statement.
- (5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental that is subject to this section.
- (6) Except as provided in Subsection (5), this section does not apply to the lease or rental of:
  - (a) tangible personal property; or
  - (b) a product transferred electronically.

Amended by Chapter 27, 2009 General Session

**59-12-213 Location of a transaction involving a sale of aircraft, a manufactured home, a mobile home, a modular home, a motor vehicle, or watercraft.**

- (1)
  - (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property is determined as provided in this section:
    - (i) aircraft;
    - (ii) a manufactured home;
    - (iii) a mobile home;
    - (iv) a modular home;
    - (v) a motor vehicle; or
    - (vi) watercraft.
  - (b) The location of the sale of tangible personal property described in Subsection (1)(a) is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal property described in Subsection (1)(a) is transportation equipment as defined in Section 59-12-211.
- (2) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.
- (3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:
  - (a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered; or
  - (b) if the tangible personal property is not required to be registered as provided in Subsection (3)(a), the location of the street address at which the purchaser of the tangible personal property resides.
- (4) This section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

Enacted by Chapter 384, 2008 General Session

**59-12-214 Location of a transaction involving the lease or rental of certain tangible personal property or a product transferred electronically.**

(1) As used in this section:

- (a) "Primary property location" means an address for tangible personal property or a product transferred electronically:
  - (i) a lessee provides to a lessor; and
  - (ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.
- (b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.

(2)

- (a) Except as provided in Subsection (2)(b) and notwithstanding Section 59-12-211, if a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this part requires recurring periodic payments:
    - (i) the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Section 59-12-211; and
    - (ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property or product location for each time period covered by the recurring periodic payment.
  - (b) If a transaction subject to taxation under this chapter involving a lease or rental of an aircraft or a motor vehicle, semitrailer, or trailer that is not transportation equipment as defined in Section 59-12-211 requires recurring periodic payments, the location of the transaction for a down payment and for each recurring periodic payment is the primary property location for each time period covered by the recurring periodic payment.
- (3) Notwithstanding Section 59-12-211, if a transaction involving a lease or rental of the following does not require recurring periodic payments, the location of the transaction is as provided in Section 59-12-211 for each lease or rental payment for:
- (a) tangible personal property or a product transferred electronically that is subject to taxation under this chapter; or
  - (b) an aircraft or a motor vehicle, semitrailer, or trailer that is:
    - (i) not transportation equipment under Section 59-12-211; and
    - (ii) subject to taxation under this chapter.
- (4) This section does not affect the imposition or computation of a tax under this chapter on:
- (a) a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this chapter on:
    - (i) the basis of a lump sum; or
    - (ii) an accelerated basis; or
  - (b) the acquisition of tangible personal property or a product transferred electronically if that tangible personal property or product transferred electronically is:
    - (i) subject to taxation under this chapter; and
    - (ii) for lease.

Enacted by Chapter 384, 2008 General Session

**59-12-215 Location of transaction involving telecommunications service or other related service.**

(1) As used in this section:

- (a) "Air-to-ground radiotelephone service" means a radio service:

- (i) as defined in 47 C.F.R. Sec. 22.99; and
- (ii) for which a common carrier is authorized to offer and provide radio telecommunications service:
  - (A) for hire; and
  - (B) to a subscriber in an aircraft.
- (b) "Call-by-call basis" means a method of charging for telecommunications service that is measured by individual calls.
- (c) "Communications channel" means a physical or virtual path of communications over which a signal is transmitted between or among customer channel termination points.
- (d)
  - (i) Subject to Subsection (1)(d)(ii), "customer" means:
    - (A) a person that is obligated under a contract with a telecommunications service provider to pay for telecommunications service received under the contract; or
    - (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user of telecommunications service.
  - (ii) "Customer" does not include a reseller:
    - (A) of telecommunications service; or
    - (B) for mobile telecommunications service, of a serving carrier under an agreement to serve a customer outside the home service provider's licensed service area.
- (e) "Customer channel termination point" means the location where a customer:
  - (i) inputs communications; or
  - (ii) receives communications.
- (f) "End user" means:
  - (i) an individual who uses a telecommunications service; or
  - (ii) for a telecommunications service provided to a person who is not an individual, an individual who uses a telecommunications service on behalf of the person who is provided the telecommunications service.
- (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (h) "Service address" means:
  - (i) regardless of where a call is billed or paid, the location of the telecommunications equipment:
    - (A) to which a customer's call is charged; and
    - (B) from which the call:
      - (I) originates; or
      - (II) terminates;
  - (ii) if the location described in Subsection (1)(h)(i) is not known, the location of the origination point of the signal of the telecommunications service first identified by:
    - (A) the telecommunications system of the telecommunications service provider; or
    - (B) if the system used to transport the signal of the telecommunications service is not a system of the telecommunications service provider, information received by the telecommunications service provider from the telecommunications service provider's telecommunications service provider; or
  - (iii) if the locations described in Subsections (1)(h)(i) and (ii) are not known, the location of a customer's place of primary use.
- (2) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a call-by-call basis is:
  - (a) the location at which the call originates and terminates; or
  - (b) the location at which:

- (i) the call:
    - (A) originates; or
    - (B) terminates; and
  - (ii) the service address is located.
- (3) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a basis other than a call-by-call basis is the customer's place of primary use.
- (4) Notwithstanding Subsection (2) or (3):
  - (a) the location of a sale of a mobile telecommunications service, other than an air-to-ground radiotelephone service or a prepaid calling service, is the location required by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
  - (b) the location of a sale of a postpaid calling service is the origination point of the telecommunications signal as first identified by:
    - (i) the seller's telecommunications system; or
    - (ii) if the system used to transport the telecommunications signal is not that of the seller, information received by the seller from the seller's telephone service provider;
  - (c) the location of a sale of a prepaid calling service is the location determined under Section 59-12-211; and
  - (d)
    - (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless calling service is the location determined under Section 59-12-211; and
    - (ii) for purposes of Subsection (4)(d)(i), the location of a transaction determined under Subsection 59-12-211(6) is considered to include the location associated with the mobile telephone number.
- (5) The location of a sale of a private communication service is:
  - (a) if all of the customer channel termination points are located entirely within one county, city, or town, the location of the sale is the county, city, or town in which all of the customer channel termination points are located;
  - (b) if a charge for a service related to a customer channel termination point is separately stated, the location of the sale is the location in which the customer channel termination point is located;
  - (c) if a charge for service for a segment of a channel between two customer channel termination points located in different counties, cities, or towns is separately stated, the location of the sale is each county, city, or town:
    - (i) in which the customer channel termination points are located; and
    - (ii) in equal proportions; and
  - (d) if a charge for service for a segment of a channel located in more than one county, city, or town is not separately stated, the location of the sale is:
    - (i) each county, city, or town in which a segment of the channel is located; and
    - (ii) in proportion to the percentage of customer channel termination points in each county, city, or town compared to the total customer channel termination points in all counties, cities, and towns.
- (6) The location of a sale of Internet access service is the customer's place of primary use.
- (7) The location of a sale of an ancillary service is the customer's place of primary use.

Amended by Chapter 203, 2009 General Session

**59-12-216 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-217 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-218 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or

- (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary;
    - (C) on a taxing jurisdiction; or
    - (D) in the taxability matrix the commission provides in accordance with the agreement.
- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
  - (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

### Part 3 Transient Room Tax

#### **59-12-301 Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

- (1)
  - (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after October 1, 2006.
  - (b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.
  - (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.
- (2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:
  - (a) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and
  - (b) expended as provided in Section 63N-3-403.
- (3) Subject to Subsection (4), a county legislative body:
  - (a) may increase or decrease the tax authorized under this part; and
  - (b) shall regulate the tax authorized under this part by ordinance.
- (4)
  - (a) For purposes of this Subsection (4):
    - (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.
    - (ii) "Annexing area" means an area that is annexed into a county.
  - (b)
    - (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
      - (A) on the first day of a calendar quarter; and
      - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b)(ii) from the county.
    - (ii) The notice described in Subsection (4)(b)(i)(B) shall state:
      - (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
      - (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);
      - (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
      - (D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.
  - (c)
    - (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
      - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

- (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
  - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
  - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.
- (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).
- (d)
  - (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.
  - (ii) The notice described in Subsection (4)(d)(i)(B) shall state:
    - (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);
    - (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and
    - (D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.
- (e)
  - (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
    - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
    - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.
  - (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
    - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
    - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.
  - (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Amended by Chapter 283, 2015 General Session

**59-12-302 Collection of tax -- Administrative charge.**

- (1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under:
    - (i) Part 1, Tax Collection; or
    - (ii) Part 2, Local Sales and Use Tax Act; and
  - (b) Chapter 1, General Taxation Policies.

- (2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).
- (4) The commission:
  - (a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and
  - (b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Amended by Chapter 364, 2016 General Session

**59-12-304 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-305 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-306 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or

- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

### **Part 3A**

#### **Municipality Transient Room Tax**

##### **59-12-352 Transient room tax authority for municipalities and military installation development authority -- Purposes for which revenues may be used.**

- (1)
  - (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).
  - (b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
- (2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.
- (3) A governing body of a municipality shall regulate the tax under this part by ordinance.
- (4) A municipality may use revenues generated by the tax under this part for general fund purposes.
- (5)
  - (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
  - (b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

Amended by Chapter 92, 2009 General Session

##### **59-12-353 Additional municipal transient room tax to repay bonded or other indebtedness.**

- (1) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:
  - (a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

- (b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.
- (2) The governing body of a municipality may impose the tax under this section until the sooner of:
  - (a) the day on which the following have been paid in full:
    - (i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and
    - (ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or
  - (b) 25 years from the day on which the municipality levied the tax under this section.

Amended by Chapter 258, 2015 General Session

**59-12-354 Collection of tax -- Administrative charge.**

- (1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under:
    - (i) Part 1, Tax Collection; or
    - (ii) Part 2, Local Sales and Use Tax Act; and
  - (b) Chapter 1, General Taxation Policies.
- (2)
  - (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (b) The commission:
    - (i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and
    - (ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).

Amended by Chapter 364, 2016 General Session

**59-12-355 Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a city or town.
- (2)
  - (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:

- (i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;
  - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
  - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
  - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
- (c)
- (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
    - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
    - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:
      - (I) Section 59-12-352; or
      - (II) Section 59-12-353.
  - (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
    - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
    - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:
      - (I) Section 59-12-352; or
      - (II) Section 59-12-353.
  - (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).
- (3)
- (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.
- (c)
- (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
    - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
    - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:
      - (I) Section 59-12-352; or
      - (II) Section 59-12-353.

- (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
  - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
  - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:
    - (I) Section 59-12-352; or
    - (II) Section 59-12-353.
- (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Amended by Chapter 255, 2004 General Session

**59-12-357 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-358 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller

receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-359 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;

- (B) on a boundary; or
- (C) on a taxing jurisdiction; or
- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 4**

### **Impacted Communities Taxes Act**

#### **59-12-400 Title.**

This part is known as the "Impacted Communities Taxes Act."

Enacted by Chapter 182, 2015 General Session

#### **59-12-401 Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.**

- (1)
- (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.
  - (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:
    - (i) the sale of:
      - (A) a motor vehicle;
      - (B) an aircraft;
      - (C) a watercraft;
      - (D) a modular home;
      - (E) a manufactured home; or
      - (F) a mobile home;
    - (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
    - (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
  - (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (d) A city or town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

- (2)
  - (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).
  - (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.
- (3)
  - (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.
  - (b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:
    - (i) use the actual number of permanent residents within the project area as determined by the board;
    - (ii) adopt a resolution verifying the population number; and
    - (iii) provide the commission any information required in Section 59-12-405.
  - (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

Amended by Chapter 362, 2013 General Session

**59-12-402 Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.**

- (1)
  - (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.
  - (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:
    - (i) the sale of:
      - (A) a motor vehicle;
      - (B) an aircraft;
      - (C) a watercraft;
      - (D) a modular home;
      - (E) a manufactured home; or
      - (F) a mobile home;
    - (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

- (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
- (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (d) A municipality imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (2)
  - (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).
  - (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.
- (3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:
  - (a) pass a resolution approving the tax; and
  - (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).
- (4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:
  - (a) hold the additional resort communities sales tax election during:
    - (i) a regular general election; or
    - (ii) a municipal general election; and
  - (b) publish notice of the election:
    - (i) 15 days or more before the day on which the election is held; and
    - (ii)
      - (A) in a newspaper of general circulation in the municipality; and
      - (B) as required in Section 45-1-101.
- (5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.
- (6)
  - (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.
  - (b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.
- (7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Amended by Chapter 9, 2010 General Session

**59-12-402.1 State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.**

- (1) As used in this section, "new state correctional facility" means a new prison in the state:
  - (a) that is operated by the Department of Corrections;
  - (b) the construction of which begins on or after May 12, 2015; and
  - (c) that provides a capacity of 2,500 or more inmate beds.
- (2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.
- (3) For purposes of this section, the tax rate may not exceed .5%.
- (4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.
- (5) A city or town may not impose a tax under this section on:
  - (a) the sale of:
    - (i) a motor vehicle;
    - (ii) an aircraft;
    - (iii) a watercraft;
    - (iv) a modular home;
    - (v) a manufactured home; or
    - (vi) a mobile home;
  - (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and
  - (c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.
- (6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (7) A city or town that imposes a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.
- (9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.
- (10) A military installation development authority may not impose a tax under this section.

Enacted by Chapter 182, 2015 General Session

**59-12-403 Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a city or town.
- (2)
  - (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and

- (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.
- (b) The notice described in Subsection (2)(a)(ii) shall state:
  - (i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;
  - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
  - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
  - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
- (c)
  - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
  - (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.
- (d)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (3)
  - (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.
  - (c)
    - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.
- (d)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (4)
  - (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:
    - (i) the same procedures used to administer, collect, and enforce the tax under:
      - (A) Part 1, Tax Collection; or
      - (B) Part 2, Local Sales and Use Tax Act; and
    - (ii) Chapter 1, General Taxation Policies.
  - (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
- (5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Amended by Chapter 364, 2016 General Session

**59-12-405 Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.**

- (1) As used in this section:
  - (a) "high-occupancy lodging unit" means each bedroom in a:
    - (i) hostel; or
    - (ii) a unit similar to a hostel as determined by the commission by rule;
  - (b) "high-occupancy lodging unit capacity of a municipality" means the product of:
    - (i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
    - (ii) four;
  - (c) "recreational lodging unit" means each site in a:
    - (i) campground that:
      - (A) is issued a business license by the municipality in which the campground is located; and
      - (B) provides the following hookups:
        - (I) water;
        - (II) sewer; and
        - (III) electricity; or
      - (ii) recreational vehicle park that provides the following hookups:
        - (A) water;
        - (B) sewer; and
        - (C) electricity; or

- (iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule;
- (d) "recreational lodging unit capacity of a municipality" means the product of:
  - (i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
  - (ii) four;
- (e) "special lodging unit" means a lodging unit:
  - (i) that is a:
    - (A) high-occupancy lodging unit;
    - (B) recreational lodging unit; or
    - (C) standard lodging unit;
  - (ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:
    - (A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);
    - (B) for a recreational lodging unit, Subsection (1)(d)(ii); or
    - (C) for a standard lodging unit, Subsection (1)(i)(ii); and
  - (iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii);
- (f) "special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3);
- (g) "special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit;
- (h) "standard lodging unit" means each bedroom in:
  - (i) a hotel;
  - (ii) a motel;
  - (iii) a bed and breakfast establishment;
  - (iv) an inn;
  - (v) a condominium that is:
    - (A) part of a rental pool; or
    - (B) regularly rented out for a time period of less than 30 consecutive days;
  - (vi) a property used as a residence that is:
    - (A) part of a rental pool; or
    - (B) regularly rented out for a time period of less than 30 consecutive days; or
  - (vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule;
- (i) "standard lodging unit capacity of a municipality" means the product of:
  - (i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
  - (ii) three; and
- (j) "transient room capacity" means the sum of:
  - (i) the high-occupancy lodging unit capacity of a municipality;
  - (ii) the recreational lodging unit capacity of a municipality;
  - (iii) the special lodging unit capacity of a municipality; and
  - (iv) the standard lodging unit capacity of a municipality.
- (2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

- (a) the high-occupancy lodging unit capacity of the municipality;
  - (b) the recreational lodging unit capacity of the municipality;
  - (c) the special lodging unit capacity of the municipality; and
  - (d) the standard lodging unit capacity of the municipality.
- (3) A municipality shall file with the commission the information required by Subsection (1):
- (a) on a form provided by the commission; and
  - (b) on or before:
    - (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or
    - (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.
- (4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent census population, the commission shall notify the municipality in writing:
- (a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and
  - (b)
    - (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or
    - (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.
- (5)
- (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.
  - (b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for two consecutive calendar years, the municipality may not impose a tax under this part:
    - (i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):
      - (A) to the municipality; and
      - (B) for the second consecutive calendar year; and
    - (ii) until the municipality meets the requirements of this part to enact the tax.

Enacted by Chapter 224, 2004 General Session

**59-12-406 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-407 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-408 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.

- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
  - (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 6**

### **Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**

#### **59-12-601.1 Title.**

This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act."

Enacted by Chapter 286, 2008 General Session

**59-12-602 Definitions.**

As used in this part:

- (1)
  - (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (b) "Airport facility" includes:
    - (i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;
    - (ii) a control tower, including a radar system;
    - (iii) a public area of an airport; or
    - (iv) a terminal facility.
- (2) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.
- (3) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- (4) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.
- (5)
  - (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.
  - (b) "Restaurant" does not include:
    - (i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and
    - (ii) a theater that sells food items, but not a dinner theater.

Amended by Chapter 263, 2010 General Session

**59-12-603 County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

- (1)
  - (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:
    - (i)
      - (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and
      - (B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made

- for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;
- (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:
  - (A) alcoholic beverages;
  - (B) food and food ingredients; or
  - (C) prepared food; and
- (iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).
- (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.
- (2)
  - (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:
    - (i) financing tourism promotion; and
    - (ii) the development, operation, and maintenance of:
      - (A) an airport facility;
      - (B) a convention facility;
      - (C) a cultural facility;
      - (D) a recreation facility; or
      - (E) a tourist facility.
  - (b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:
    - (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
    - (ii) combine the sale of:
      - (A) ski lift tickets; and
      - (B) accommodations and services described in Subsection 59-12-103(1)(i).
- (3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:
  - (a) an airport facility;
  - (b) a convention facility;
  - (c) a cultural facility;
  - (d) a recreation facility; or
  - (e) a tourist facility.
- (4)
  - (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.
  - (b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).
  - (c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

- (5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.
- (6)
  - (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).
  - (b) The tax advisory board shall be composed of nine members appointed as follows:
    - (i) four members shall be appointed by the county legislative body of the county of the first class as follows:
      - (A) one member shall be a resident of the unincorporated area of the county;
      - (B) two members shall be residents of the incorporated area of the county; and
      - (C) one member shall be a resident of the unincorporated or incorporated area of the county; and
    - (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.
  - (c) Five members of the tax advisory board constitute a quorum.
  - (d) The county legislative body of the county of the first class shall determine:
    - (i) terms of the members of the tax advisory board;
    - (ii) procedures and requirements for removing a member of the tax advisory board;
    - (iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;
    - (iv) chairs or other officers of the tax advisory board;
    - (v) how meetings are to be called and the frequency of meetings; and
    - (vi) the compensation, if any, of members of the tax advisory board.
  - (e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).
- (7)
  - (a)
    - (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:
      - (A) the same procedures used to administer, collect, and enforce the tax under:
        - (I) Part 1, Tax Collection; or
        - (II) Part 2, Local Sales and Use Tax Act; and
      - (B) Chapter 1, General Taxation Policies.
    - (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).
  - (b) Except as provided in Subsection (7)(c):
    - (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and
    - (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).
  - (c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

- (8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:
  - (a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and
  - (b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
- (9)
  - (a) For purposes of this Subsection (9):
    - (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.
    - (ii) "Annexing area" means an area that is annexed into a county.
  - (b)
    - (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
      - (A) on the first day of a calendar quarter; and
      - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.
    - (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
      - (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
      - (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
      - (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
      - (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.
  - (c)
    - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.
    - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.
  - (d)
    - (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
      - (A) on the first day of a calendar quarter; and
      - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
    - (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
      - (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
      - (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
      - (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e)

- (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.
- (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Amended by Chapter 350, 2016 General Session

Amended by Chapter 364, 2016 General Session

**59-12-605 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-606 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-607 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

- (i) incorrect data provided by the commission:
  - (A) on a tax rate;
  - (B) on a boundary; or
  - (C) on a taxing jurisdiction; or
- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 7**

### **County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities**

#### **59-12-701 Purpose statement.**

The Utah Legislature finds and declares that:

- (1) Recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries.
- (2) Utah was the first state in this nation to create and financially support a state arts agency, now the Utah Arts Council, which is committed to the nurturing and growth of cultural pursuits.
- (3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state.
- (4) The state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations.
- (5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological facilities, and botanical, cultural, and zoological organizations owned or operated by institutions or private nonprofit organizations, through the imposition of a county sales and use tax.
- (6) In a county of the first class, it is necessary and appropriate to allocate a tax imposed under this part in a manner that provides adequate predictable support to a fixed number of botanical and cultural organizations and that gives the county legislative body discretion to allocate the tax revenues to other botanical and cultural organizations.

Amended by Chapter 296, 2003 General Session

#### **59-12-702 Definitions.**

As used in this part:

- (1) "Administrative unit" means a division of a private nonprofit organization or institution that:
  - (a) would, if it were a separate entity, be a botanical organization or cultural organization; and
  - (b) consistently maintains books and records separate from those of its parent organization.
- (2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.
- (3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.
- (4) "Botanical organization" means:
  - (a) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or
  - (b) an administrative unit.
- (5) "Cultural facility" means the same as that term is defined in Section 59-12-602.
- (6)
  - (a) "Cultural organization":
    - (i) means:
      - (A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:
        - (I) natural history;
        - (II) art;
        - (III) music;
        - (IV) theater;
        - (V) dance; or
        - (VI) cultural arts, including literature, a motion picture, or storytelling;
      - (B) an administrative unit; and
    - (ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) only:
      - (A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of history; or
      - (B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:
        - (I) history;
        - (II) natural history;
        - (III) art;
        - (IV) music;
        - (V) theater; or
        - (VI) dance.
  - (b) "Cultural organization" does not include:
    - (i) an agency of the state;
    - (ii) except as provided in Subsection (6)(a)(ii)(B), a political subdivision of the state;
    - (iii) an educational institution whose annual revenues are directly derived more than 50% from state funds; or
    - (iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
- (7) "Institution" means an institution listed in Subsections 53B-1-102(1)(b) through (k).
- (8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

- (9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.
- (10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.
- (11)
- (a)
- (i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.
- (ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.
- (b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
- (12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Amended by Chapter 344, 2016 General Session

**59-12-703 Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

- (1)
- (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:
- (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or
- (ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.
- (b) The opinion question required by this section shall state: "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"
- (c) A county legislative body may not impose a tax under this section on:
- (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

- (ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and
    - (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.
  - (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
  - (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.
- (2)
- (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:
    - (i) described in Subsection (1); and
    - (ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.
  - (b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.
- (3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:
- (a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;
  - (b) to fund ongoing operating expenses of:
    - (i) recreational facilities described in Subsection (3)(a);
    - (ii) botanical organizations, cultural organizations, and zoological organizations within the county; and
    - (iii) rural radio stations within the county; and
  - (c) as stated in the opinion question described in Subsection (1).
- (4)
- (a) A tax authorized under this part shall be:
    - (i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:
      - (A) the same procedures used to administer, collect, and enforce the tax under:
        - (I) Part 1, Tax Collection; or
        - (II) Part 2, Local Sales and Use Tax Act; and
      - (B) Chapter 1, General Taxation Policies; and
    - (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(5)

(a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b)

(i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c)

(i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d)

(i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e)

(i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f)

- (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.
  - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.
- (g)
- (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 344, 2016 General Session

Amended by Chapter 364, 2016 General Session

**59-12-704 Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.**

- (1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:
- (a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;
  - (b)
    - (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, having average annual operating expenses of \$1,500,000 or more as determined under Subsection (3), with:
      - (A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;
      - (B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and
      - (C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;
    - (ii) if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization

- or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and
- (iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (3);
- (c)
    - (i) 45% of the revenue collected by the county under this section shall be distributed to no more than 22 botanical organizations and cultural organizations with average annual operating expenses of more than \$250,000 as determined under Subsection (3);
    - (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and
    - (iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural organization's operating budget; and
  - (d)
    - (i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i); and
    - (ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).
- (2)
    - (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection (1)(c)(i).
    - (b)
      - (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.
      - (ii) In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed from the Utah Arts Council.
  - (3)
    - (a) Except as provided in Subsection (3)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:
      - (i) calculate its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and
      - (ii) submit to the appropriate county legislative body:
        - (A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and
        - (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).
    - (b) The county legislative body may waive the operating expenses reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

- (4) When calculating average annual operating expenses as described in Subsection (3), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.
- (5)
  - (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).
  - (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.
- (6)
  - (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:
    - (i) as provided in this Subsection (6); and
    - (ii) as stated in the opinion question described in Subsection 59-12-703(1).
  - (b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.
  - (c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:
    - (i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or
    - (ii) in accordance with an interlocal agreement described in Subsection (6)(b).
- (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.
- (8) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 344, 2016 General Session

**59-12-705 Free or reduced admission day available to all state residents.**

Each botanical organization, cultural organization, or zoological organization that receives money from a tax imposed under this part and that periodically offers a waived or discounted admission fee shall make the waived or discounted admission fee available to all residents of the state.

Amended by Chapter 416, 2011 General Session

**59-12-707 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-708 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-709 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

- (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 8**

### **Funding for Health Care**

#### **59-12-801 Definitions.**

As used in this part:

- (1) "Emergency medical services" is as defined in Section 26-8a-102.
- (2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
- (3) "Freestanding urgent care center" means a facility that provides outpatient health care service:
  - (a) on an as-needed basis, without an appointment;
  - (b) to the public;

- (c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and
- (d) including one or more of the following services:
  - (i) a medical history physical examination;
  - (ii) an assessment of health status; or
  - (iii) treatment:
    - (A) for a variety of medical conditions; and
    - (B) that is commonly offered in a physician's office.
- (4) "Nursing care facility" is as defined in Section 26-21-2.
- (5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.
- (6) "Rural county health care facility" means a:
  - (a) rural county hospital; or
  - (b) rural county nursing care facility.
- (7) "Rural county hospital" means a hospital owned by a county that is:
  - (a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
  - (b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.
- (8) "Rural county nursing care facility" means a nursing care facility owned by:
  - (a) a county that is:
    - (i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
    - (ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or
  - (b) a special service district if the special service district is:
    - (i) created for the purpose of operating the nursing care facility; and
    - (ii) within a county that is:
      - (A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
      - (B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.
- (9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:
  - (a) a fifth or sixth class county, as defined in Section 17-50-501; and
  - (b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.
- (10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

Amended by Chapter 50, 2014 General Session

**59-12-802 Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.**

- (1)
  - (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.
  - (b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:
    - (i) for a county of the third or fourth class, rural county health care facilities in that county; or

- (ii) for a county of the fifth or sixth class:
  - (A) rural emergency medical services in that county;
  - (B) federally qualified health centers in that county;
  - (C) freestanding urgent care centers in that county;
  - (D) rural county health care facilities in that county;
  - (E) rural health clinics in that county; or
  - (F) a combination of Subsections (1)(b)(ii)(A) through (E).
- (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:
  - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;
  - (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and
  - (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.
- (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (2)
  - (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:
    - (i) members of the county's legislative body; and
    - (ii) county's registered voters voting on the imposition of the tax.
  - (b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.
- (3)
  - (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:
    - (i) ongoing operating expenses of a rural county health care facility within that county;
    - (ii) the acquisition of land for a rural county health care facility within that county; or
    - (iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.
  - (b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:
    - (i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;
    - (ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;
    - (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or
    - (iv) rural emergency medical services within that county.
- (4)
  - (a) A tax under this section shall be:
    - (i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

- (A) the same procedures used to administer, collect, and enforce the tax under:
  - (I) Part 1, Tax Collection; or
  - (II) Part 2, Local Sales and Use Tax Act; and
- (B) Chapter 1, General Taxation Policies; and
- (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).
- (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
- (c) A county legislative body shall distribute money collected from a tax under this section quarterly.
- (5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Amended by Chapter 364, 2016 General Session

**59-12-804 Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.**

- (1)
  - (a) A city legislative body may impose a sales and use tax of up to 1%:
    - (i) on the transactions described in Subsection 59-12-103(1) located within the city; and
    - (ii) to fund rural city hospitals in that city.
  - (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:
    - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
    - (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
  - (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (d) A city legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (2)
  - (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:
    - (i) members of the city legislative body; and
    - (ii) city's registered voters voting on the imposition of the tax.
  - (b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.
- (3) The money collected from a tax imposed under Subsection (1) may only be used to fund:
  - (a) ongoing operating expenses of a rural city hospital;
  - (b) the acquisition of land for a rural city hospital; or
  - (c) the design, construction, equipping, or furnishing of a rural city hospital.
- (4)
  - (a) A tax under this section shall be:
    - (i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:
      - (A) the same procedures used to administer, collect, and enforce the tax under:

- (I)Part 1, Tax Collection; or
- (II)Part 2, Local Sales and Use Tax Act; and
- (B)Chapter 1, General Taxation Policies; and
- (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).
- (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
- (5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Amended by Chapter 364, 2016 General Session

**59-12-805 Distribution of money collected from rural city hospital tax.**

- (1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all money collected from a tax under Section 59-12-804 shall be distributed quarterly by the city legislative body to rural city hospitals.
- (2) If there is more than one rural city hospital in a city, the money collected from a tax under Section 59-12-804 shall be distributed as determined by the city legislative body.

Amended by Chapter 50, 2014 General Session

**59-12-806 Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to:
    - (i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or
    - (ii) a city under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a county or city.
- (2)
  - (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county or city.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:
    - (i) that the county or city will enact or repeal a tax or change the rate of a tax under this part;
    - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
    - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
    - (iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
  - (c)
    - (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:
        - (I) Section 59-12-802; or

- (II) Section 59-12-804.
- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
  - (A) Section 59-12-802; or
  - (B) Section 59-12-804.
- (d)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (3)
  - (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.
  - (c)
    - (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:
        - (I) Section 59-12-802; or
        - (II) Section 59-12-804.
    - (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
      - (A) Section 59-12-802; or
      - (B) Section 59-12-804.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:
      - (A) on the first day of a calendar quarter; and

- (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of a tax under Subsection (3)(a).
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

**59-12-808 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-809 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-810 Purchaser relief from liability.**

- (1)

- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
  - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary;
    - (C) on a taxing jurisdiction; or
    - (D) in the taxability matrix the commission provides in accordance with the agreement; or
  - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary;
    - (C) on a taxing jurisdiction; or
    - (D) in the taxability matrix the commission provides in accordance with the agreement.
- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
  - (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
    - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
      - (i) incorrect data provided by the commission:
        - (A) on a tax rate;
        - (B) on a boundary; or
        - (C) on a taxing jurisdiction; or
      - (ii) an erroneous classification by the commission:
        - (A) in the taxability matrix the commission provides in accordance with the agreement; and
        - (B) with respect to a term:
          - (I) in the library of definitions; and
          - (II) that is:

- (Aa) listed as taxable or exempt;
- (Bb) included in or excluded from "sales price"; or
- (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 11**

### **County Option Sales and Use Tax**

#### **59-12-1101 Statewide purpose.**

The Legislature finds that a statewide purpose is served by this part in that it enables counties to carry out more effectively the counties' statutorily defined roles as political and legal subdivisions of the state by improving the counties' revenue raising capacities.

Enacted by Chapter 228, 1997 General Session

#### **59-12-1102 Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

- (1)
  - (a)
    - (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).
    - (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.
  - (b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (c) The county option sales and use tax under this section shall be imposed:
    - (i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and
    - (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:
      - (A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or
      - (B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.
  - (d) The county option sales and use tax under this section shall be imposed:
    - (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or
    - (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.
- (2)
  - (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

- (b)
    - (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.
    - (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.
  - (c)
    - (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:
      - (A) its intent to adopt a county option sales and use tax;
      - (B) the date, time, and location of each public hearing; and
      - (C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.
    - (ii) The advertisement shall be published:
      - (A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and
      - (B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.
    - (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.
    - (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.
    - (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:
      - (A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and
      - (B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.
  - (d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.
- (3)
- (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.
  - (b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:
    - (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and
    - (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.
  - (c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:
    - (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

- (ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).
  - (d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).
- (4)
- (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:
    - (i) the same procedures used to administer, collect, and enforce the tax under:
      - (A) Part 1, Tax Collection; or
      - (B) Part 2, Local Sales and Use Tax Act; and
    - (ii) Chapter 1, General Taxation Policies.
  - (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
  - (c)
    - (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
    - (ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:
      - (A) the applicable distribution calculations under Subsection (3) have been made; and
      - (B) the commission retains the amount required by Subsection (5).
- (5)
- (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).
  - (b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.
  - (c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:
    - (i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and
    - (ii) \$6,354.
  - (d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.
  - (e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.
- (6)
- (a) For purposes of this Subsection (6):
    - (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.
    - (ii) "Annexing area" means an area that is annexed into a county.
  - (b)
    - (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:
      - (A)

- (I) the enactment shall take effect as provided in Subsection (1)(c); or
- (II) the repeal shall take effect on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.
- (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
  - (A) that the county will enact or repeal a tax under this part;
  - (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
  - (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
  - (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.
- (c)
  - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.
  - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).
- (d)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (e)
  - (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.
  - (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
    - (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;
    - (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
    - (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
    - (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
- (f)
  - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.
  - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).
- (g)

- (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
  - (A) on the first day of a calendar quarter; and
  - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 364, 2016 General Session

**59-12-1104 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-1105 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-1106 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:

- (A) in the taxability matrix the commission provides in accordance with the agreement; and
- (B) with respect to a term:
  - (I) in the library of definitions; and
  - (II) that is:
    - (Aa) listed as taxable or exempt;
    - (Bb) included in or excluded from "sales price"; or
    - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 12**

### **Motor Vehicle Rental Tax**

#### **59-12-1201 Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.**

- (1)
  - (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.
  - (b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.
- (2)
  - (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
  - (b)
    - (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:
      - (A) that begins after the effective date of the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).
    - (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
      - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
      - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).
- (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:
  - (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;
  - (b) the motor vehicle is rented as a personal household goods moving van; or
  - (c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.
- (4)
  - (a)
    - (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:
      - (A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B)Chapter 1, General Taxation Policies.

- (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.
- (b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.
- (c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Amended by Chapter 184, 2016 General Session

Amended by Chapter 291, 2016 General Session

**59-12-1202 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-1203 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-1204 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or

- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 13**

### **Town Option Sales and Use Tax Act**

#### **59-12-1301 Title.**

This part is known as the "Town Option Sales and Use Tax Act."

Enacted by Chapter 243, 1998 General Session

#### **59-12-1302 Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.**

- (1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.
- (2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.
- (3) A town imposing a tax under this section shall:
  - (a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and
  - (b) provide an effective date for the tax as provided in Subsection (5).
- (4)
  - (a) A town may not impose a tax under this section on:
    - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
    - (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.
  - (b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (c) A town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (5)
  - (a) For purposes of this Subsection (5):
    - (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.
    - (ii) "Annexing area" means an area that is annexed into a town.

- (b)
  - (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.
  - (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
    - (A) that the town will enact or repeal a tax or change the rate of a tax under this part;
    - (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
    - (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
    - (D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.
- (c)
  - (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
  - (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).
- (d)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (e)
  - (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.
  - (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
    - (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
    - (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
    - (D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.
- (f)
  - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the

tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).
- (g)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (6) The commission shall:
  - (a) distribute the revenue generated by the tax under this section to the town imposing the tax; and
  - (b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:
    - (i) the same procedures used to administer, collect, and enforce the tax under:
      - (A) Part 1, Tax Collection; or
      - (B) Part 2, Local Sales and Use Tax Act; and
    - (ii) Chapter 1, General Taxation Policies.
- (7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

Amended by Chapter 364, 2016 General Session

**59-12-1304 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-1305 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or

- (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-1306 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:

- (A) on a tax rate;
- (B) on a boundary; or
- (C) on a taxing jurisdiction; or
- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition; or
- (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
  - (i) incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary; or
    - (C) on a taxing jurisdiction; or
  - (ii) an erroneous classification by the commission:
    - (A) in the taxability matrix the commission provides in accordance with the agreement; and
    - (B) with respect to a term:
      - (I) in the library of definitions; and
      - (II) that is:
        - (Aa) listed as taxable or exempt;
        - (Bb) included in or excluded from "sales price"; or
        - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 14**

### **City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities**

#### **59-12-1401 Purpose statement -- Definitions -- Scope of part.**

- (1) The purpose of the tax imposed by this part is the same for cities and towns as is stated in Section 59-12-701 for counties.
- (2) The definitions of Section 59-12-702 are incorporated into this part.
- (3) This part applies only to a city or town that is located within a county of the second, third, fourth, fifth, or sixth class as designated in Section 17-50-501.

Amended by Chapter 317, 2004 General Session

#### **59-12-1402 Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

- (1)
  - (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all

members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

- (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or
  - (ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.
- (b) The opinion question required by this section shall state: "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"
- (c) A city or town legislative body may not impose a tax under this section:
- (i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;
  - (ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
  - (iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.
- (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (e) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.
- (2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.
- (3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:
- (a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;
  - (b) to finance ongoing operating expenses of:
    - (i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or
    - (ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and
  - (c) as stated in the opinion question described in Subsection (1).
- (4)

- (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:
    - (i) administered, collected, and enforced in accordance with:
      - (A) the same procedures used to administer, collect, and enforce the tax under:
        - (I) Part 1, Tax Collection; or
        - (II) Part 2, Local Sales and Use Tax Act; and
      - (B) Chapter 1, General Taxation Policies; and
    - (ii)
      - (A) levied for a period of eight years; and
      - (B) may be reauthorized at the end of the eight-year period in accordance with this section.
  - (b)
    - (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.
    - (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.
  - (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
- (5)
- (a) For purposes of this Subsection (5):
    - (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
    - (ii) "Annexing area" means an area that is annexed into a city or town.
  - (b)
    - (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
      - (A) on the first day of a calendar quarter; and
      - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.
    - (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
      - (A) that the city or town will enact or repeal a tax under this part;
      - (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
      - (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
      - (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.
  - (c)
    - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.
    - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
      - (A) on the first day of a calendar quarter; and
      - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).
    - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
  - (e)

- (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
  - (A) on the first day of a calendar quarter; and
  - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
- (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
  - (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;
  - (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
  - (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
  - (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- (f)
  - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.
  - (ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.
- (g)
  - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (6)
  - (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:
    - (i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and
    - (ii) receive from the county legislative body:
      - (A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or
      - (B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.
  - (b)
    - (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:
      - (A) the written resolution described in Subsection (6)(a)(ii)(A); or

- (B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.
- (ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:
  - (A) a 12-month period;
  - (B) the next regular primary election; or
  - (C) the next regular general election.
- (iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:
  - (A)
    - (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or
    - (II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or
  - (B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.
- (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Amended by Chapter 364, 2016 General Session

**59-12-1403 Distribution of revenues -- Administrative costs.**

- (1)
  - (a) The city or town legislative body shall by ordinance provide for the distribution of the entire amount of the revenues collected from the tax imposed by this part:
    - (i) in accordance with this section; and
    - (ii) as stated in the opinion question described in Subsection 59-12-1402(1).
  - (b) A city or town may participate in an interlocal agreement provided for under Section 59-12-704 and distribute the revenues collected from the tax imposed by this part to participants in the interlocal agreement.

- (c) Subject to Subsection (1)(a), revenues collected from the tax shall be used for one or more organizations or facilities defined in Section 59-12-702.
- (2) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

Amended by Chapter 416, 2011 General Session

**59-12-1405 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-1406 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-1407 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
    - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
      - (i) incorrect data provided by the commission:
        - (A) on a tax rate;
        - (B) on a boundary; or
        - (C) on a taxing jurisdiction; or
      - (ii) an erroneous classification by the commission:
        - (A) in the taxability matrix the commission provides in accordance with the agreement; and
        - (B) with respect to a term:
          - (I) in the library of definitions; and

(II) that is:

- (Aa) listed as taxable or exempt;
- (Bb) included in or excluded from "sales price"; or
- (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 18**

### **Additional State Sales and Use Tax Act**

#### **59-12-1801 Title.**

This part is known as the "Additional State Sales and Use Tax Act."

Enacted by Chapter 288, 2007 General Session

#### **59-12-1802 State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.**

- (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be imposed within the county under this section by the state:
  - (a) on the transactions described in Subsection 59-12-103(1);
  - (b) at a rate of .25%; and
  - (c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.
- (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.
- (3) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Amended by Chapter 384, 2008 General Session

#### **59-12-1803 Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax.**

- (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.
- (2)
  - (a) The enactment of a tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax if the billing period for the transaction begins before the effective date of the tax under this part.
  - (b) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this part.
- (3)
  - (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax under this part takes effect:

- (i) on the first day of a calendar quarter; and
  - (ii) beginning 60 days after the effective date of the enactment or repeal of the tax under this part.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (4) A tax imposed by this part shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and
  - (b) Chapter 1, General Taxation Policies.

Amended by Chapter 254, 2012 General Session

**59-12-1804 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-1805 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-1806 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or

- (ii) an erroneous classification by the commission:
  - (A) in the taxability matrix the commission provides in accordance with the agreement; and
  - (B) with respect to a term:
    - (I) in the library of definitions; and
    - (II) that is:
      - (Aa) listed as taxable or exempt;
      - (Bb) included in or excluded from "sales price"; or
      - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

## **Part 20**

### **Supplemental State Sales and Use Tax Act**

#### **59-12-2001 Title.**

This part is known as the "Supplemental State Sales and Use Tax Act."

Enacted by Chapter 286, 2008 General Session

#### **59-12-2002 Definitions.**

As used in this part, "public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

Enacted by Chapter 286, 2008 General Session

#### **59-12-2003 Imposition -- Base -- Rate -- Revenues distributed to certain public transit districts.**

- (1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.
- (2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed a sales and use tax of:
  - (a) .30% under Section 59-12-2213;
  - (b) .30% under Section 59-12-2215; or
  - (c) .30% under Section 59-12-2216.
- (3)
  - (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a county of the first or second class is a percentage equal to the difference between:
    - (i) .30%; and
    - (ii)
      - (A) for a city within the county of the first or second class, the highest tax rate imposed within that city under:

- (I) Section 59-12-2213;
- (II) Section 59-12-2215; or
- (III) Section 59-12-2216;
- (B) for a town within the county of the first or second class, the highest tax rate imposed within that town under:
  - (I) Section 59-12-2213;
  - (II) Section 59-12-2215; or
  - (III) Section 59-12-2216; or
- (C) for the unincorporated area of the county of the first or second class, the highest tax rate imposed within that unincorporated area under:
  - (I) Section 59-12-2213;
  - (II) Section 59-12-2215; or
  - (III) Section 59-12-2216.
- (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of a county of the first or second class, the highest tax rate imposed under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the first or second class is .30%, the state may not impose a tax under this part within that city, town, or unincorporated area.
- (4)
  - (a) The state may not impose a tax under this part on:
    - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or
    - (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food ingredients.
  - (b) The state shall impose a tax under this part on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and ingredients and tangible personal property other than food and food ingredients.
- (5) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (6) The commission shall distribute the revenues the state collects from the sales and use tax under this part, after subtracting amounts a seller retains in accordance with Section 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:
  - (a) within which the state imposes a tax under this part; and
  - (b) in proportion to the revenues collected from the sales and use tax under this part within each city, town, and unincorporated area within which the state imposes a tax under this part.

Amended by Chapter 263, 2010 General Session

**59-12-2004 Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax -- Administrative charge.**

- (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.
- (2)
  - (a) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase under this part.

- (b) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under this part.
- (3)
  - (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax under this part takes effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under this part.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (4) The commission shall administer, collect, and enforce a tax under this part in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection;
  - (b) Chapter 1, General Taxation Policies; and
  - (c) Section 59-12-210.1.
- (5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 254, 2012 General Session

**59-12-2005 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-2006 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

- (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 286, 2008 General Session

**59-12-2007 Purchaser relief from liability.**

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:

- (I) in the library of definitions; and
  - (II) that is:
    - (Aa) listed as taxable or exempt;
    - (Bb) included in or excluded from "sales price"; or
    - (Cc) included in or excluded from a definition; or
- (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
  - (i) incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary; or
    - (C) on a taxing jurisdiction; or
  - (ii) an erroneous classification by the commission:
    - (A) in the taxability matrix the commission provides in accordance with the agreement; and
    - (B) with respect to a term:
      - (I) in the library of definitions; and
      - (II) that is:
        - (Aa) listed as taxable or exempt;
        - (Bb) included in or excluded from "sales price"; or
        - (Cc) included in or excluded from a definition.

Enacted by Chapter 286, 2008 General Session

## **Part 21**

### **City or Town Option Sales and Use Tax Act**

#### **59-12-2101 Title.**

This part is known as the "City or Town Option Sales and Use Tax Act."

Enacted by Chapter 323, 2008 General Session

#### **59-12-2102 Definitions.**

As used in this part:

- (1) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
- (2) "Annexing area" means an area that is annexed into a city or town.

Enacted by Chapter 323, 2008 General Session

#### **59-12-2103 Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

- (1)
  - (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales

within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

- (i) described in Subsection 59-12-103(1); and
  - (ii) within the city or town.
- (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.
- (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (2)
- (a) A city or town legislative body may not impose a tax under this section on:
    - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
    - (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.
  - (b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (3)
- (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.
  - (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.
  - (c)
    - (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.
    - (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.
- (4) The commission shall transmit revenue collected within a city or town from a tax under this part:
- (a) to the city or town legislative body;
  - (b) monthly; and
  - (c) by electronic funds transfer.
- (5)
- (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:
    - (i) the same procedures used to administer, collect, and enforce the tax under:
      - (A) Part 1, Tax Collection; or
      - (B) Part 2, Local Sales and Use Tax Act; and
    - (ii) Chapter 1, General Taxation Policies.
  - (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
- (6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (7)

- (a)
  - (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.
  - (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
    - (A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;
    - (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
    - (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
    - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.
- (b)
  - (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
  - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.
- (c)
  - (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (d)
  - (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.
  - (ii) The notice described in Subsection (7)(d)(i)(B) shall state:
    - (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);
    - (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and
    - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.
- (e)

- (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
  - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.
- (f)
- (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:
    - (A) on the first day of a calendar quarter; and
    - (B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 364, 2016 General Session

**59-12-2104 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-2105 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

- (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 323, 2008 General Session

**59-12-2106 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:

- (Aa) listed as taxable or exempt;
- (Bb) included in or excluded from "sales price"; or
- (Cc) included in or excluded from a definition; or
- (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
  - (i) incorrect data provided by the commission:
    - (A) on a tax rate;
    - (B) on a boundary; or
    - (C) on a taxing jurisdiction; or
  - (ii) an erroneous classification by the commission:
    - (A) in the taxability matrix the commission provides in accordance with the agreement; and
    - (B) with respect to a term:
      - (I) in the library of definitions; and
      - (II) that is:
        - (Aa) listed as taxable or exempt;
        - (Bb) included in or excluded from "sales price"; or
        - (Cc) included in or excluded from a definition.

Enacted by Chapter 323, 2008 General Session

## **Part 22**

### **Local Option Sales and Use Taxes for Transportation Act**

#### **59-12-2201 Title.**

This part is known as the "Local Option Sales and Use Taxes for Transportation Act."

Enacted by Chapter 263, 2010 General Session

#### **59-12-2202 Definitions.**

As used in this part:

- (1) "Airline" is as defined in Section 59-2-102.
- (2) "Airport facility" is as defined in Section 59-12-602.
- (3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.
- (4) "Annexation" means an annexation to:
  - (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or
  - (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.
- (5) "Annexing area" means an area that is annexed into a county, city, or town.
- (6) "Council of governments" is as defined in Section 72-2-117.5.
- (7) "Fixed guideway" is as defined in Section 59-12-102.
- (8) "Major collector highway" is as defined in Section 72-4-102.5.
- (9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.
- (10) "Minor arterial highway" is as defined in Section 72-4-102.5.
- (11) "Minor collector road" is as defined in Section 72-4-102.5.
- (12) "Principal arterial highway" is as defined in Section 72-4-102.5.

(13) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

- (i) a principal arterial highway;
- (ii) a minor arterial highway;
- (iii) a fixed guideway that:
  - (A) extends across two or more cities or unincorporated areas; or
  - (B) is an extension to an existing fixed guideway; or
- (iv) an airport of regional significance; or

(b) in a county of the third, fourth, fifth, or sixth class:

- (i) a principal arterial highway;
- (ii) a minor arterial highway;
- (iii) a major collector highway;
- (iv) a minor collector road; or
- (v) an airport of regional significance.

(14) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

(15)

(a) Subject to Subsection (15)(b), "system for public transit" has the same meaning as "public transit" as defined in Section 17B-2a-802.

(b) "System for public transit" includes:

- (i) the following costs related to public transit:
  - (A) maintenance costs; or
  - (B) operating costs;
- (ii) a fixed guideway;
- (iii) a park and ride facility;
- (iv) a passenger station or passenger terminal;
- (v) a right-of-way for public transit; or
- (vi) the following that serve a public transit facility:
  - (A) a maintenance facility;
  - (B) a platform;
  - (C) a repair facility;
  - (D) a roadway;
  - (E) a storage facility;
  - (F) a utility line; or
  - (G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

Enacted by Chapter 263, 2010 General Session

**59-12-2203 Authority to impose a sales and use tax under this part.**

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

- (a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or
- (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

- (a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or
- (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.
- (3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:
  - (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or
  - (b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.
- (4) A county may impose the sales and use tax authorized by Section 59-12-2219 in accordance with Section 59-12-2219.

Amended by Chapter 275, 2015 General Session

**59-12-2204 Transactions that may not be subject to taxation under this part -- Exception for food and food ingredients sold as part of a bundled transaction.**

- (1) A county, city, or town may not impose a sales and use tax under this part on:
  - (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
  - (b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.
- (2) A county, city, or town imposing a sales and use tax under this part shall impose the sales and use tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Enacted by Chapter 263, 2010 General Session

**59-12-2205 Determination of the location of a transaction.**

For purposes of this part, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

Enacted by Chapter 263, 2010 General Session

**59-12-2206 Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.**

- (1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.
- (2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:
  - (a) the same procedures used to administer, collect, and enforce a tax under:
    - (i) Part 1, Tax Collection; or
    - (ii) Part 2, Local Sales and Use Tax Act; and
  - (b) Chapter 1, General Taxation Policies.
- (3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through (7).
- (4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town

from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

- (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:
- (a) provides written notice to the state treasurer requesting the transfer; and
  - (b) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

Amended by Chapter 364, 2016 General Session

**59-12-2207 Administrative charge.**

The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

**59-12-2208 Legislative body approval requirements -- Voter approval requirements.**

- (1) Subject to the other provisions of this section, before imposing a sales and use tax under this part, a county, city, or town legislative body shall:
- (a) obtain approval to impose the sales and use tax from a majority of the members of the county, city, or town legislative body; and
  - (b) submit an opinion question to the county's, city's, or town's registered voters voting on the imposition of the sales and use tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section.
- (2) The opinion question required by this section shall state:
- "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"
- (3)
- (a) Subject to Subsection (3)(b), the election required by this section shall be held:
    - (i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular general elections; or
    - (ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202.
  - (b)
    - (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the opinion question required by this section will be submitted to registered voters shall, no later than 15 days before the date of the election:
      - (A) publish a notice:
        - (I) once in a newspaper published in that county; and
        - (II) as required in Section 45-1-101; or
      - (B)
        - (I) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the registered voters voting on the imposition of the sales and use tax; and

- (II) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.
- (ii) The notice under Subsection (3)(b)(i) shall:
  - (A) state that an opinion question will be submitted to the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this section so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section; and
  - (B) list the purposes for which the revenues collected from the sales and use tax shall be expended.
- (4) A county, city, or town that submits an opinion question to registered voters under this section is subject to Section 20A-11-1203.
- (5) Subject to Section 59-12-2209, if a county, city, or town legislative body determines that a majority of the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this part have voted in favor of the imposition of the sales and use tax in accordance with this section, the county, city, or town legislative body shall impose the sales and use tax.
- (6) If, after imposing a sales and use tax under this part, a county, city, or town legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2), the county, city, or town legislative body shall:
  - (a) obtain approval from a majority of the members of the county, city, or town legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2); and
  - (b) in accordance with the procedures and requirements of this section, submit an opinion question to the county's, city's, or town's registered voters voting on the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeal the tax rate stated in the opinion question described in Subsection (2).

Enacted by Chapter 263, 2010 General Session

**59-12-2209 Enactment, repeal, or change in the rate of a sales and use tax under this part -- Annexation -- Notice.**

- (1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or repeals a sales and use tax or changes the rate of a sales and use tax under this part, the enactment, repeal, or change shall take effect:
  - (a) on the first day of a calendar quarter; and
  - (b) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2) from the county, city, or town.
- (2) The notice described in Subsection (1)(b) shall state:
  - (a) that the county, city, or town will enact, repeal, or change the rate of a sales and use tax under this part;
  - (b) the statutory authority for the sales and use tax described in Subsection (2)(a);
  - (c) the date the enactment, repeal, or change will take effect; and
  - (d) if the county, city, or town enacts the sales and use tax or changes the rate of the sales and use tax described in Subsection (2)(a), the rate of the sales and use tax.

- (3)
  - (a) If the billing period for a transaction begins before the effective date of the enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales and use tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the sales and use tax or the tax rate increase.
  - (b) If the billing period for a transaction begins before the effective date of the repeal of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the sales and use tax or the tax rate decrease.
- (4)
  - (a) If a sales and use tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a sales and use tax described in Subsection (1) takes effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the sales and use tax under Subsection (1).
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (5) Except as provided in Subsection (7) or (8), if an annexation will result in the enactment, repeal, or change in the rate of a sales and use tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
  - (a) on the first day of a calendar quarter; and
  - (b) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6) from the county, city, or town that annexes the annexing area.
- (6) The notice described in Subsection (5) shall state:
  - (a) that the annexation described in Subsection (5) will result in an enactment, repeal, or change in the rate of a sales and use tax under this part for the annexing area;
  - (b) the statutory authority for the sales and use tax described in Subsection (6)(a);
  - (c) the date the enactment, repeal, or change will take effect; and
  - (d) if the annexation will result in the enactment or change in the rate of the sales and use tax described in Subsection (6)(a), the rate of the sales and use tax.
- (7)
  - (a) If the billing period for a transaction begins before the effective date of the enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales and use tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the sales and use tax or the tax rate increase.
  - (b) If the billing period for a transaction begins before the effective date of the repeal of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the sales and use tax or the tax rate decrease.
- (8)
  - (a) If a sales and use tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a sales and use tax described in Subsection (6) takes effect:
    - (i) on the first day of a calendar quarter; and

- (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the sales and use tax under Subsection (6).
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

**59-12-2210 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a sales and use tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the sales and use tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Enacted by Chapter 263, 2010 General Session

**59-12-2211 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a sales and use tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a sales and use tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of sales and use tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 263, 2010 General Session

**59-12-2212 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement; or
    - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or
      - (D) in the taxability matrix the commission provides in accordance with the agreement.
  - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
    - (i) fraudulent;
    - (ii) intentional; or
    - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
    - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
      - (i) incorrect data provided by the commission:
        - (A) on a tax rate;
        - (B) on a boundary; or
        - (C) on a taxing jurisdiction; or
      - (ii) an erroneous classification by the commission:
        - (A) in the taxability matrix the commission provides in accordance with the agreement; and
        - (B) with respect to a term:
          - (I) in the library of definitions; and

(II) that is:

- (Aa) listed as taxable or exempt;
- (Bb) included in or excluded from "sales price"; or
- (Cc) included in or excluded from a definition.

Enacted by Chapter 263, 2010 General Session

**59-12-2212.1 Transition provisions.**

Notwithstanding any other provision of this part, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 and is not required to provide notice to the commission in accordance with Section 59-12-2209 if:

- (1)
  - (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-501 that is repealed by Laws of Utah 2010, Chapter 263;
  - (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (1)(a) is transferred to Section 59-12-2213; and
  - (c) the rate of the sales and use tax described under Subsection (1)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2213 are the same;
- (2)
  - (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-502 that is repealed by Laws of Utah 2010, Chapter 263;
  - (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (2)(a) is transferred to Section 59-12-2214; and
  - (c) the rate of the sales and use tax described under Subsection (2)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2214 are the same;
- (3)
  - (a) on June 30, 2010, a city or town imposes a sales and use tax under Section 59-12-1001 that is repealed by Laws of Utah 2010, Chapter 263;
  - (b) on July 1, 2010, the authority for the city or town to impose the sales and use tax described in Subsection (3)(a) is transferred to Section 59-12-2215; and
  - (c) the rate of the sales and use tax described under Subsection (3)(a) and the rate of the sales and use tax the city or town imposes under Section 59-12-2215 are the same;
- (4)
  - (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1503 that is repealed by Laws of Utah 2010, Chapter 263;
  - (b) on July 1, 2010, the authority for the county to impose the sales and use tax described in Subsection (4)(a) is transferred to Section 59-12-2216; and
  - (c) the rate of the sales and use tax described under Subsection (4)(a) and the rate of the sales and use tax the county imposes under Section 59-12-2216 are the same;
- (5)
  - (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1703 that is repealed by Laws of Utah 2010, Chapter 263;
  - (b) on July 1, 2010, the authority for the county to impose the sales and use tax described in Subsection (5)(a) is transferred to Section 59-12-2217; and
  - (c) the rate of the sales and use tax described under Subsection (5)(a) and the rate of the sales and use tax the county imposes under Section 59-12-2217 are the same; and
- (6)

- (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-1903 that is repealed by Laws of Utah 2010, Chapter 263;
- (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (6)(a) is transferred to Section 59-12-2218; and
- (c) the rate of the sales and use tax described under Subsection (6)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2218 are the same.

Enacted by Chapter 263, 2010 General Session

**59-12-2213 County, city, or town option sales and use tax to fund a system for public transit -- Base -- Rate.**

- (1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax under this section of up to:
  - (a) for a county, city, or town other than a county, city, or town described in Subsection (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town to fund a system for public transit; or
  - (b) for a county, city, or town within which a tax is not imposed under Section 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a system for public transit.
- (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if the county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July 1, 2011.

Amended by Chapter 223, 2011 General Session

**59-12-2214 County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval exception.**

- (1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.
- (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:
  - (a) to fund a system for public transit;
  - (b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:
    - (i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
    - (ii) for a city or town that imposes the sales and use tax, if:
      - (A) that city or town is located within a county of the second class;
      - (B) that city or town owns or operates the airport facility; and
      - (C) an airline is headquartered in that city or town; or
  - (c) for a combination of Subsections (2)(a) and (b).
- (3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

- (a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and
- (b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.
- (4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:
  - (a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;
  - (b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:
    - (i) Section 59-12-2213; or
    - (ii) Section 59-12-2215; and
  - (c) the county, city, or town obtained voter approval to impose the sales and use tax under:
    - (i) Section 59-12-2213; or
    - (ii) Section 59-12-2215.

Amended by Chapter 421, 2015 General Session

**59-12-2215 City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.**

- (1) Subject to the other provisions of this part, a city or town may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within the city or town.
- (2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:
  - (a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;
  - (b) to fund a system for public transit; or
  - (c) for a combination of Subsections (2)(a) and (b).

Enacted by Chapter 263, 2010 General Session

**59-12-2216 County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.**

- (1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.
- (2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:
  - (a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;
  - (b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;
  - (c) the following relating to a state highway within the county:
    - (i) a project within the county if the project:

- (A) begins on or after the day on which a county legislative body imposes a tax under this section; and
- (B) involves an environmental study, an improvement, new construction, or a renovation;
- (ii) debt service on a project described in Subsection (2)(c)(i); or
- (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or
- (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating to a highway that is:
  - (i) a principal arterial highway or minor arterial highway;
  - (ii) included in a metropolitan planning organization's regional transportation plan; and
  - (iii) not a state highway.
- (3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Subsection (2).
- (4) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this section.
- (5) The revenues collected from a sales and use tax under this section shall be:
  - (a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and
  - (b) expended as provided in this section.
- (6) If a county legislative body allocates revenues collected from a sales and use tax under this section for a state highway project described in Subsection (2)(c)(i), before beginning the state highway project within the county, the county legislative body shall:
  - (a) obtain approval from the Transportation Commission to complete the project; and
  - (b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.
- (7) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:
  - (a) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the items described in Subsection (2);
  - (b) obtaining approval to change the allocation of the sales and use tax by a majority of all of the members of the county legislative body; and
  - (c) subject to Subsection (8):
    - (i) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and
    - (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.
- (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(a) and approved by the county legislative body in accordance with Subsection (7)(b).
- (9) Revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(c) shall be:
  - (a) deposited into the Highway Projects Within Counties Fund created by Section 72-2-121.1; and
  - (b) expended as provided in Section 72-2-121.1.

(10)

- (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:
  - (i) entered into on or before January 1, 2010; and
  - (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.
- (b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Enacted by Chapter 263, 2010 General Session

**59-12-2217 County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.**

- (1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.
- (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:
  - (a) a project or service:
    - (i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;
    - (ii) for new capacity or congestion mitigation if the project or service is performed within a county:
      - (A) of the first or second class; or
      - (B) if that county is part of an area metropolitan planning organization; and
    - (iii) that is on a priority list:
      - (A) created by the county's council of governments in accordance with Subsection (7); and
      - (B) approved by the county legislative body in accordance with Subsection (7);
  - (b) corridor preservation for a project or service described in Subsection (2)(a) as provided in Subsection (8); or
  - (c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).
- (3) If a project or service described in Subsection (2) is for:
  - (a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:
    - (i) county and municipal master plan; and
    - (ii)
      - (A) statewide long-range plan; or
      - (B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
  - (b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.
- (4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

- (a) a principal arterial highway;
  - (b) a minor arterial highway;
  - (c) a collector road in a county of the second class; or
  - (d) a major collector highway in a rural area.
- (5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first or second class, 25% or more shall be expended for the purpose described in Subsection (2)(b).
- (6)
- (a) As provided in this Subsection (6), a council of governments shall:
    - (i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;
    - (ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and
    - (iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).
  - (b) The written prioritization process described in Subsection (6)(a)(i) shall include:
    - (i) a definition of the type of projects to which the written prioritization process applies;
    - (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;
    - (iii) the specification of data that is necessary to apply the weighted criteria system;
    - (iv) application procedures for a project to be considered for prioritization by the council of governments; and
    - (v) any other provision the council of governments considers appropriate.
  - (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:
    - (i) the cost effectiveness of a project;
    - (ii) the degree to which a project will mitigate regional congestion;
    - (iii) the compliance requirements of applicable federal laws or regulations;
    - (iv) the economic impact of a project;
    - (v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and
    - (vi) any other provision the council of governments considers appropriate.
  - (d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:
    - (i) the written prioritization process; or
    - (ii) any proposed amendment to the written prioritization process.
- (7)
- (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.
  - (b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:
    - (i) the written prioritization process; and
    - (ii) the merits of the projects that are prioritized as part of the written prioritization process.

- (c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.
  - (d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:
    - (i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and
    - (ii) make the reasons described in Subsection (7)(d)(i) publicly available.
  - (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:
    - (i) submit the priority list to the county legislative body for approval; and
    - (ii) obtain approval of the priority list from a majority of the members of the county legislative body.
  - (f) A council of governments may only submit one priority list per calendar year to the county legislative body.
  - (g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.
- (8)
- (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:
    - (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; and
    - (ii) expended as provided in Section 72-2-117.5.
  - (b) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:
    - (i) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and
    - (ii) expended as provided in Section 72-2-121.

Amended by Chapter 421, 2015 General Session

**59-12-2218 County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.**

- (1) Subject to the other provisions of this part, the following may impose a sales and use tax under this section:
  - (a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:
    - (i) described in Subsection 59-12-103(1); and
    - (ii) within the county, including the cities and towns within the county; or
  - (b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:
    - (i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

- (ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and
- (iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):
  - (A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or
  - (B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.
- (2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:
  - (a) .10%; or
  - (b) .25%.
- (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:
  - (a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;
  - (b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:
    - (i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
    - (ii) for a city or town legislative body that imposes the sales and use tax, if:
      - (A) that city or town owns or operates the airport facility; and
      - (B) an airline is headquartered in that city or town; or
  - (c) deposited or expended for a combination of Subsections (3)(a) and (b).
- (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:
  - (a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;
  - (b) expended for:
    - (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;
    - (ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or
    - (iii) a combination of Subsections (4)(b)(i) and (ii);

- (c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;
  - (d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:
    - (i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
    - (ii) for a city or town legislative body that imposes the sales and use tax, if:
      - (A) that city or town owns or operates the airport facility; and
      - (B) an airline is headquartered in that city or town;
  - (e) expended for:
    - (i) a class B road, as defined in Section 72-3-103;
    - (ii) a class C road, as defined in Section 72-3-104; or
    - (iii) a combination of Subsections (4)(e)(i) and (ii);
  - (f) expended for traffic and pedestrian safety, including:
    - (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:
      - (A) a sidewalk;
      - (B) curb and gutter;
      - (C) a safety feature;
      - (D) a traffic sign;
      - (E) a traffic signal;
      - (F) street lighting; or
      - (G) a combination of Subsections (4)(f)(i)(A) through (F);
    - (ii) the construction of an active transportation facility that:
      - (A) is for nonmotorized vehicles and multimodal transportation; and
      - (B) connects an origin with a destination; or
    - (iii) a combination of Subsections (4)(f)(i) and (ii); or
  - (g) deposited or expended for a combination of Subsections (4)(a) through (f).
- (5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this section for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:
- (a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or
  - (b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.
- (6)
- (a)
    - (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5.
    - (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.
  - (b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

- (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
  - (ii) has continuously imposed a tax described in Subsection (2)(b):
    - (A) beginning after July 1, 2010; and
    - (B) for a five-year period.
- (7)
  - (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
    - (i) expend the revenues in accordance with Subsection (4); or
    - (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
      - (A) that city or town owns or operates an airport facility; and
      - (B) an airline is headquartered in that city or town.
  - (b)
    - (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:
      - (A) that city or town owns or operates an airport facility; and
      - (B) an airline is headquartered in that city or town.
    - (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:
      - (A) a project or service relating to the airport facility; and
      - (B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.
  - (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:
    - (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and
    - (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.
  - (d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):
    - (i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:
      - (A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and
      - (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

- (ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:
    - (A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and
    - (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);
  - (iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):
    - (A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and
    - (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and
  - (iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).
- (8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:
- (a) to the county legislative body within which the city or town is located; and
  - (b) at the same time as the city or town legislative body provides the notice to the commission.
- (9)
- (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.
  - (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:
    - (i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or
    - (ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.
  - (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:
    - (i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and
    - (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).
  - (d)
    - (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:
      - (A) in accordance with Subsection (9)(c);
      - (B) beginning on the date the city or town legislative body enacts the sales and use tax; and

- (C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.
- (ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:
  - (A) in accordance with Subsection (9)(c);
  - (B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and
  - (C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.
- (e)
  - (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).
  - (ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:
    - (A) Subsection (9)(c); and
    - (B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

Amended by Chapter 348, 2016 General Session

**59-12-2219 County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.**

- (1) As used in this section:
  - (a) "Class B road" means the same as that term is defined in Section 72-3-103.
  - (b) "Class C road" means the same as that term is defined in Section 72-3-104.
  - (c) "Eligible political subdivision" means a political subdivision that:
    - (i)
      - (A) on May 12, 2015, provides public transit services; or
      - (B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;
    - (ii) is not a public transit district; and
    - (iii) is not annexed into a public transit district.
  - (d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.
- (2) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

- (3) The commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (10).
- (4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:
  - (a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;
  - (b) .10% shall be distributed as provided in Subsection (8); and
  - (c) .05% shall be distributed to the county legislative body.
- (5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:
  - (a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:
    - (i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;
    - (ii) .10% shall be distributed as provided in Subsection (8); and
    - (iii) .05% shall be distributed to the county legislative body;
  - (b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:
    - (i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;
    - (ii) .10% shall be distributed as provided in Subsection (8); and
    - (iii) .05% shall be distributed to the county legislative body; and
  - (c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:
    - (i) .10% shall be distributed as provided in Subsection (8); and
    - (ii) .15% shall be distributed to the county legislative body.
- (6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:
  - (a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:
    - (i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;
    - (ii) .10% shall be distributed as provided in Subsection (8); and
    - (iii) .05% shall be distributed to the county legislative body;
  - (b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:
    - (i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;
    - (ii) .10% shall be distributed as provided in Subsection (8); and
    - (iii) .05% shall be distributed to the county legislative body; and
  - (c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:
    - (i) .10% shall be distributed as provided in Subsection (8); and

- (ii) .15% shall be distributed to the county legislative body.
- (7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:
  - (a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:
    - (i) .10% shall be distributed as provided in Subsection (8);
    - (ii) .10% shall be distributed as provided in Subsection (9); and
    - (iii) .05% shall be distributed to the county legislative body;
  - (b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:
    - (i) .10% shall be distributed as provided in Subsection (8);
    - (ii) .10% shall be distributed as provided in Subsection (9); and
    - (iii) .05% shall be distributed to the county legislative body; and
  - (c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:
    - (i) .10% shall be distributed as provided in Subsection (8); and
    - (ii) .15% shall be distributed to the county legislative body.
- (8)
  - (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:
    - (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and
    - (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.
  - (b)
    - (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.
    - (ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.
- (9)
  - (a)
    - (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:
      - (A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county,

- and in compliance with the requirements for changing an allocation under Subsection (9) (e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or
- (B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.
- (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:
- (A) a public transit district for a city or town within the county that is annexed into a single public transit district; or
- (B) an eligible political subdivision within the county.
- (b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7) (a)(ii) or (7)(b)(ii) to:
- (i) a public transit district for a city or town within the county that is annexed into a single public transit district; or
- (ii) an eligible political subdivision within the county.
- (c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).
- (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:
- (i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and
- (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or (7) (b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:
- (A) 50% of the revenue as provided in Subsection (8); and
- (B) 50% of the revenue to the county legislative body.
- (e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:
- (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;
- (ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and
- (iii) subject to Subsection (9)(f):
- (A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the

- opportunity to express the registered voter's opinion on whether the allocation should be changed; and
- (B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.
- (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).
- (g)
- (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.
- (ii) The notice described in Subsection (9)(g)(i) shall state:
- (A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and
- (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.
- (10)
- (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.
- (b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.
- (11) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:
- (a) a class B road;
- (b) a class C road;
- (c) traffic and pedestrian safety, including for a class B road or class C road, for:
- (i) a sidewalk;
- (ii) curb and gutter;
- (iii) a safety feature;
- (iv) a traffic sign;
- (v) a traffic signal;
- (vi) street lighting; or
- (vii) a combination of Subsections (11)(c)(i) through (vi);
- (d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;
- (e) public transit system services; or
- (f) a combination of Subsections (11)(a) through (e).

(12) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(13)

- (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.
- (b) The limitation under Subsection (13)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

Amended by Chapter 373, 2016 General Session